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ABSTRACT

A 10-month investigation by the City of New York Special Commissioner of Investigation for the New York City School District found widespread corruption and mishandling of the 1993 Community School Board election. School board elections are at the heart of school decentralization, and should enable local communities to exercise control over their schools. The 32 boards elected in May 1993 set policy and control budgets in excess of $100 million. The investigation found fraud and corruption as well as administrative mismanagement in many areas of the election process. Poor planning and coordination by the Board of Elections and the Board of Education led to lax registration of parent voters. In some areas, anyone could vote, often multiple times, and many parents were not allowed to vote at all. Contractors hired to count ballots did a poor job. Unqualified people were allowed to count ballots, and some ballots were lost. Many absentee ballots were cast under false names, without the knowledge and consent of the unsuspecting "voters." In some districts, teachers and staff were pressured into supporting a candidate. Election guidelines were also found to be ineffective and frequently broken. The investigation offered several recommendations for improving efficiency and safeguards in the election. (JPT)

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CITY OF NEW YORK
THE SPECIAL COMMISSIONER OF INVESTIGATION
FOR THE NEW YORK CITY SCHOOL DISTRICT

EDWARD F. STANCIK
SPECIAL COMMISSIONER

FROM CHAOS TO CORRUPTION:
AN INVESTIGATION INTO THE 1993 COMMUNITY SCHOOL BOARD ELECTION

By: **ROBERT M. BRENNER**, Deputy Commissioner
REGINA A. LOUGHRAN, Special Counsel
THOMAS COMISKEY, Supervising Investigator
TRACY KRAMER, Intelligence Analyst

December 1993

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This case was primarily investigated by a Task Force under the direction of Supervising Investigator Thomas Comiskey who was assisted by Senior Investigator Thomas Fennell. Senior Investigators James Skennion and Larry Kendricks, and Financial Investigator Penni Rose completed the team. The intake of complaints was handled by Investigator Jacob Deutsch.

At times, the Task Force was assisted by the entire Investigation Division under the supervision of Chief Investigator Ernest Mahone and Deputy Chief Investigators Anthony Jacaruso and Michael Gallaro.

CITY OF NEW YORK
THE SPECIAL COMMISSIONER OF INVESTIGATION
FOR THE NEW YORK CITY SCHOOL DISTRICT
25 BROADWAY, 8TH FLOOR
NEW YORK, NEW YORK 10004

ED STANCIK
SPECIAL COMMISSIONER

TELEPHONE (212) 510-1400
FAX (212) 510-1550

FROM CHAOS TO CORRUPTION: AN INVESTIGATION INTO THE 1993 COMMUNITY SCHOOL BOARD ELECTION

Report Highlights

This report describes the problems that beset the 1993 Community School Board Election, from administrative mismanagement to outright voter fraud. Among the report's most notable findings:

- Using phony names, undercover investigators "voted" multiple times, while legitimately registered parent voters were turned away at the polls. The chaos was so pervasive that one undercover investigator voted fifteen times, even twice at the same poll site in front of the same inspector.

- Two Fordham University students who had part time jobs in School District 10 filled out and cast more than one hundred absentee ballots in the names of their unsuspecting fellow students.

- The principal of a Brooklyn elementary school turned his school into a political power base, coercing his staff to join the local Democratic club and to endorse his ally for reelection to the School Board. Teachers who did not attend political club meetings were punished in school. Various teachers reported sexual harassment, and one teacher likened herself and her colleagues to "battered women."

- Elections commissioners decide which candidates go on the ballot in private sessions without having to provide explanations for their actions. At least two commissioners may have been influenced by self-interest and political connections to keep certain candidates' names on the ballot.

- A Community School Board 1 candidate submitted a nominating petition containing fraudulent signatures. Various candidates "backdated" petitions and swore falsely to having witnessed signatures.

- A candidate's son was hired to count ballots in District 11, where his father was a candidate. Meanwhile, an entire box of District 13 ballots was never found, but the ballot count proceeded anyway.

- Parents of students at 190 schools were disenfranchised due to an administrative error in the parent voter registration process.

- Benjamin Ramos, who was elected to School Board 9, and Kenneth Drummond, who was elected to School Board 12, do not live in the South Bronx. Ramos lives in suburban New Jersey and Drummond lives in a luxury highrise in Riverdale.

- A District 9 political group held a fundraiser to raise campaign money, but did not account for the thousands of dollars they raised. The money remains unaccounted for today.

- William Sampol, who was implicated in a 1989 report on corruption in District 27, distributed hundreds of phony flyers endorsing Geraldine Chapey. The flyers were printed on what appeared to be official letterheads of community organizations, but the groups' leaders did not know about or authorize the literature.

- The Community School Board Election cost New York City millions of extra dollars. More than 10,000 police hours were spent watching cardboard ballot boxes for a nine-day period.

Executive Summary

Our ten month investigation closely examined the integrity of the May 1993 New York City Community School Board Election. School board elections are at the heart of decentralization, which should enable local communities to exercise control over the education of their children. Local board members have a direct impact on the quality of education in the district. The thirty two boards elected last May set policy for their districts and control budgets in excess of $100 million, as well as thousands of educational jobs.

We found widespread fraud and corruption as well as administrative mismanagement in many areas of the election process. Both of these present serious dangers because, when they flourish, parents and community members are denied the voice decentralization was designed to give them. A brief summary of our most illustrative findings follows.

Parent voter registration

Poor planning and coordination by the Board of Elections and the Board of Education once again had a disastrous impact on the registering of parent voters. While in Manhattan anyone could pretend to be a parent and cast as many votes as names he or she could make up, duly registered parents lost their votes through administrative fumbling.

- In Community School District 2, one undercover investigator voted fifteen times under fifteen different fictitious names. He even voted twice in front of the same poll inspector. Another investigator voted ten times in District 6 using fictitious names.

- Due to administrative errors, each of the 25 fictitious "parents" had valid voter registration cards waiting for them at the polling sites.

- Parent voters from 190 schools, who had legally registered in and before 1989, lost their right to vote in 1993 when principals at those schools failed to return their certification lists. The Board of Education did not ensure that the lists were completed and returned.

Election Day

School board elections should be conducted with a seriousness and integrity that reflect their importance to the community. The chaotic conditions that reigned in New York City this year instead reflect the Board of Elections' disinterested attitude toward an election it plainly sees as unimportant.

- Parents and other registered voters lost their votes in a host of ways. Parent voters were turned away because the Board of Elections had sent their cards to the wrong sites, or because the inspectors did not know to look for them in a separate roll book made up for parent voters.

• When two school districts shared one voting site -- these sites were known as "split district" sites -- voters from one district were often given the ballots for the other. On some occasions, the ballots for only one district were available.

• Sample ballots virtually identical to the real thing were not marked as samples, with the result that many wound up filled out and dropped into the ballot boxes. Once again, disenfranchisement could be avoided only by sacrificing integrity concerns, and the Board of Elections was forced to count the sample ballots as valid.

• Voters were afforded little dignity or privacy. At best the voting "booth" was a small cardboard divider. At worst, it was a bench shared with other voters. Often, voters had to fight off candidates or their supporters telling them how to vote.

• The most basic security precautions, such as sealed ballot boxes, were ignored. One of our investigators actually lifted the top off the box to insert his ballot inside. The attending inspector just laughed.

• Widespread electioneering was tolerated. One candidate approached voters at the Ramirez Senior Citizens Home in District 7 as they were voting and repeated her slogan, "Carmen Arroyo #1." As our investigator was marking his ballot in another district, a woman approached him with a list of candidates and said, "these ten here...it's a good decision." Similar scenes were witnessed throughout the city.

• Essential materials such as rollbooks, ballots, and ballot boxes were often hours late in arriving at their sites. At one site, voting commenced only after a voter found the ballots in a corner of the gymnasium.

The Vote Count

Despite widespread irregularities cited by investigators and journalists in the 1989 vote count, the Board of Elections seemed disinterested in improving the integrity of the 1993 count. Two means of getting a more honest count were obvious: attract new contractors to perform the count, and automate the count to reduce opportunities for fraud. The Board of Elections did neither. With almost no effort to find new contractors, the Board awarded the job to the only bidder, Proportional Count Associates (PCA), who had won the contract for three of the last four elections. Predictably, PCA delivered a far from satisfactory performance.

• Though automation was recognized as an important tool to improve integrity, the Board of Elections did not explain what automation meant either in its contract or in the pre-bid conference.

• The Board of Elections did not consult with its own computer unit on the software PCA wanted to use. The software was only tested once, with no Board of Elections personnel present.

• In District 11, PCA hired candidate Rodney Saunders' son Keith to count ballots. In District 13, PCA hired Candidate Marilyn Mosely's campaign workers to count ballots.

• In District 13, PCA lost a ballot box containing at least thirteen ballots. The ballots were never recovered.

• Tally sheets and vote stubs, mechanisms designed to guard against ballot stuffing, were routinely ignored.

The Cost

What the School Board Election lacks in integrity and decorum, it makes up for in cost. The price, both in dollars and in police manpower, is staggering. The police cost is particularly troubling, since it is directly attributable to the paper ballots and complex ballot counting system used only in the School Board Election.

• The Board of Elections spends approximately $4 million on the Community School Board Election, about the same as it does on a general election.

• For each of the eight days between Election Day and the start of the count, a total of thirty police officers and three sergeants spent full eight-hour shifts guarding the cardboard ballot boxes in warehouses.

• For each day of the counting, a total of ninety six police officers and nine sergeants spent full shifts guarding the count sites.

• Thus, at a time when New Yorkers are increasingly concerned about their safety, the School Board Election required that the police spend almost 10,000 crime fighting hours watching boxes.

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In addition to the gross mismanagement described above, our investigation also uncovered cases of deliberate fraud and misconduct.

Voter Fraud

In possibly the most egregious fraud perpetrated in an election already riddled with improprieties, unsuspecting Fordham University students were duped into participating in the Community School Board Election in the Bronx. Two Fordham seniors who worked part-time in the District 10 office cast more than one hundred votes in the names of their fellow students to help a District 10 candidate get elected.

• Nicole Avallone and Jean Marie Gildea, two Resident Advisors at Fordham, filled out absentee ballot applications for their fellow students, obtained the ballots, and cast them -- all without the consent and knowledge of their unsuspecting classmates.

• Students from as far away as Hawaii and California were surprised to find themselves registered to vote in the Bronx.

• James Sullivan, director of Pupil Personnel in District 10, orchestrated Avallone and Gildea's efforts.

Undue Political Influence

Our investigation revealed that the pressure suffered by educators to get involved in political campaigns is not limited to any one district. To the contrary, we found that teachers and school staff in District 21 in Brooklyn were pressured to participate in political campaigns. In District 9 in the Bronx, school employees were tapped to throw a fundraiser. School employees feel that they have no choice but to pay their political dues.

• Stuart Possner, principal of PS 100 in District 21, used certain staff members to pressure his teachers to join a local Democratic Club. He stacked the Club's membership so that it would vote to endorse one of his supporters on the School Board, Sheldon Plotnick. Many of the teachers do not live in the neighborhood of the Club, let alone in Brooklyn.

• Possner had his henchmen collect Club dues from teachers while they were in the classroom. Other allies made sure that the staff would be at the important Club meetings to vote for Plotnick.

• Teachers who did not attend Club meetings were punished in school the next day.

• PS 100 teachers reported being the victims of Possner's graphic and aggressive sexual harassment. One teacher likened the staff to "battered women" who see no way out of their destructive environment.

• In District 9, School Board Member Carmelo Saez coordinated efforts for a fundraiser which was attended by almost every principal in the District and many other District employees. Virtually every task needed to pull off the fundraiser was accomplished using District personnel and resources. Although many thousands of dollars were raised, the distribution of the proceeds remains a mystery.

Petition Review

The petition review process is replete with arcane rules and secrecy that give political insiders an advantage over parents and community members without political clout. The

secretive process makes it easy for politicians and commissioners to cut deals behind the scenes to favor certain candidates.

- The manner in which the Commissioners of the Board of Elections held the hearings to review the challenges to candidates' petitions raised serious questions about the integrity of the process.

- In closed door meetings, Board of Elections commissioners voted to place District 12 candidates Randy Glenn and Ed Cain and District 8 candidates Ciro Guerra and Steven Eskow on the ballot, despite the fact that all four candidates fell short of the requisite two hunderd nominating signatures. No record of the vote or proceedings was made.

- Bronx Republican District Leader Fred Brown was captured on tape saying that "it cost a helluva chip" to get State Senator Guy Velella to contact his father, Elections Commissioner Vincent Velella, to restore Glenn and Cain to the ballot. The integrity of the petition review process was further compromised by the fact that Elections Commissioner Paul Mejias had business interests in both districts.

- At the same time, District 10 Candidate Herbert Suss was excluded from the ballot for a technical violation. A political outsider, Suss was not given the same consideration afforded to the well-connected candidates in Districts 12 and 8.

Petitions

Community School Board candidates violated petition rules in a variety of ways for a variety of reasons. Our investigation revealed that for whatever reason, candidates largely disregarded the rules, opening the door to forgeries.

- Sister Elizabeth Kelliher, a long time Board member in Community School District 1, broke the law to secure the requisite number of nominating signatures. Kelliher used one set of volunteers to collect nominating signatures on her petitions, then asked others who were not present when the signatures were obtained to falsely swear that they had witnessed them.

- Forged signatures appear on several pages of Kelliher's petitions.

- Kenneth Drummond and Veronica James, candidates in District 12, used school employees to collect signatures and then had others sign as the witness. Drummond and James were indicted by a New York County Grand Jury as a result of their petition scheme and their cases are pending.

- In District 10, candidate Marvin Kamiel obtained and circulated petition pages

before the official start of the petition period. Kamiel's wife, Harriet, signed as the subscribing witness for signatures which she did not collect.

• Many signature collectors left the date blank so they could "backdate" petition pages. Others left the candidate's name blank so that the pages could be distributed to fellow candidates in need of nominating signatures.

Residency Fraud

Candidates all too often ignored or circumvented the requirement that they live in the district they seek to serve as school board members. People with minimal, if any, ties to the local school district create sham addresses or otherwise misrepresent their true homes in order to get elected to the school boards. As a result, genuinely concerned parents and community members are denied that opportunity.

• Kenneth Drummond, who was already removed from School Board 12 once before for not living in District 12, still lives in a luxury highrise in Riverdale. In a secretly recorded conversation, he admitted that he installed a telephone in a South Bronx apartment to convince investigators that he lives there.

• School Board 9 member Benjamin Ramos claimed to live in an apartment within the confines of that District for the purpose of running for the school board. We found substantial evidence indicating that Ramos lives in South Plainfield, New Jersey.

Campaign Advertising

Even campaign advertising was infiltrated by fraud. In one district, when genuine endorsements were not forthcoming, a candidate's supporter brazenly enacted a fraudulent advertising scheme.

• In Community School District 27, it seemed that Candidate Geraldine Chapey was the lucky recipient of endorsements by the Gateway Republican Club and a junior high school parents association. In fact, William Sampol, who was implicated in a 1989 report on corruption in District 27, circulated phony flyers. He signed them as "president emeritus," but he has never been the president of either organization and both groups said they deliberately decided not to endorse any school board candidates this year.

Financial Disclosure

Surprisingly few candidates disclose their finances as is required by law. Leaving the public without this information makes it easier for candidates to pressure school employees to contribute to their campaigns.

- The financial disclosure rules were routinely violated but no one enforced a penalty. More than twenty five percent of the candidates ignored the financial disclosure requirements altogether.

- The CSA Pic 10, a political action committee supporting candidates in District 10, raised over ten thousand dollars, but inaccurately and falsely reported how they spent the money.

Recommendations

The events chronicled in this report make it clear that the present system of electing representatives to the local school boards must be changed dramatically. In addition to systemic recommendations, we have made disciplinary recommendations to the Chancellor and we have referred evidence of criminal activity and conflict of interest to the appropriate adjudicating agencies.

- Proportional voting should be eliminated.

- Votes should be cast on the voting machines used in the general elections.

- The impact and advantages of moving the election to coincide with the general election should be evaluated.

- The Board of Education should immediately begin planning a complete overhaul of the parent voter registration process. The current contradictory mandates of the Education and Election Laws with respect to parent voter certification should be reconciled.

- All decisions made by the Board of Elections regarding candidates for Community School Boards must be made in public and on the record.

- The financial disclosure requirements for Community School Board candidates should be tightened, clarified, and enforced. Candidates who fail to comply should not be sworn in as board members.

- The Board of Education should require more detailed disclosure of residency status from Community School Board candidates.

- The Board of Education should extend "whistleblower" protection to the students of the New York City Public Schools and their parents.

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While in the course of reporting the results of this investigation we are sometimes critical of the New York City Board of Elections, nevertheless, we are grateful to Administrative Manager Jon Del Giorno for his patience.

Last, but certainly not least, we thank law student interns Sari Granat, Alison Geneen, Jason Fruhschein, and college intern Jennifer Vacchio for their invaluable assistance in this investigation.

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An Investigation Into The 1993 Community School Board Election

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FROM CHAOS TO CORRUPTION:
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The Election Process: A Recipe for Disaster

If the purpose of the decentralization of the New York City Schools is to empower local communities and encourage parental involvement in the education of their children, then the manner by which the decentralized Boards elect their representatives is a recipe for disaster.[1] The Community School Board election process, complete with paper ballots and proportional representation, is archaic and easily manipulated even when everyone plays by the rules. However, as our investigation reveals, the situation is aggravated every step of the way by practices which defy oversight and diffuse responsibility for enforcement. In the current system, rules are ignored with impunity and the fear of penalty for one's transgression is virtually nonexistent.

The result is an election that is too often the captive of a select group of political insiders who know when and where the rules can be used or abused for their benefit. At the same time, parents and teachers in the classroom, the intended beneficiaries of decentralization, are discouraged, disenfranchised, and often outright coerced. Deals to determine who should count the votes or remain on the ballot are shrouded in secrecy while ordinary voters are forced to vote in open-air "booths" and teachers are forced to publicly pledge and demonstrate their allegiance to candidates holding power. In this atmosphere, the appearance of impropriety is inevitable and destructive even where corruption does not

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[1] When the New York City school system was decentralized in 1970, community school boards were created to govern the City's thirty two local school districts. Each local board, made up of nine elected members of the community, sets policy for the schools in its district and hires the district's school administrators. Each board controls a budget of $60-125 million.

exist. Well-meaning parents and teachers either leave the system or, in the words of one candidate, "do what they have to do to survive."

Over the course of our ten month investigation, we received scores of complaints from virtually every district in the city. This report includes only the most illustrative examples of the failed electoral process. Many other complaints have been and continue to be investigated and may be the subject of future reports or will be referred to the appropriate adjudicating agencies. However, what is clear is that the problems are not isolated or divorced from the educational process. They directly impact on the teachers' ability to teach and on the students' ability to learn throughout this city.

ADMINISTRATION OF THE ELECTION

On May 4, 1993, James Skennion, a resident of Stuyvesant Town with no children in the public schools, voted fifteen times as a "parent voter" in District 2. Likewise, Santiago Martinez, a resident of Queens with no children in the schools, voted ten times in Manhattan's District 6.[2] At the same time, parents of children at **190** schools who registered prior to January 1993 were removed from the rolls without any warning and without any recourse.

Meanwhile, throughout the system, voters acknowledged as duly registered faced other indignities on Election Day. They were forced to vote without even a modicum of privacy. Handed a ballot and shown a seat at a table, voters penciled in their choices with elections officials, or worse, school officials looking over their shoulders. And even then, they were not assured that their vote would count. Sample ballots, designed to look exactly like the real thing, fooled the Board of Elections' own inspectors, leading them to erroneously provide the invalid replicas to voters seeking to actually cast their vote.

Voters overcoming all these obstacles had no assurance that the ballot they cast would actually end up at the proper count site nine days hence. Split election districts, unsealed boxes, and sloppy paperwork, if not outright corruption, led to wayward ballots turning up at count sites bearing no relation to the district where the vote was cast.

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[2] Skennion and Martinez are investigators working for the Special Commissioner. Though between them they "voted" twenty-five times, they did so in such a way that their ballots would not ultimately be counted. In that way, the system could be tested without actually affecting the outcome of any race.

Finally, even where voters were able to vote and Board of Elections officials got the ballots to the proper count sites, observers were given ample reason to question whether the final tally truly reflected the will of the people. In one district, the son of a candidate was hired to count votes cast in his father's race. In another, campaign workers for one candidate were hired to count votes in the very race in which they participated. In still another race, a candidate was credited with first choice votes from ballots which did not even include him among any of the voter's preferences.

The explanation for these and other horror stories at the polls lies, in part, with the all but orphaned status of the Community School Board Election within the electoral system. The Community School Board Election is governed by two statutes with conflicting goals and administered by two bureaucracies with different priorities and expertise.

Under the current statutory scheme, the Board of Elections is charged with administering an election whose ground rules are largely set by the school decentralization laws, a statute with which it is unfamiliar. The decentralization laws provide that the Election Law applies except where specifically modified by the Education Law. However, such modifications have changed most everything except the agency ultimately responsible for collecting and counting the ballots. The Education Law calls for proportional voting, paper ballots, and a two-tiered registration process, all procedures foreign to the Elections Board. To make matters worse, the Board of Elections must rely on the Board of Education to perform crucial tasks such as the registration and certification of parent voters, and chooses to contract out the actual counting of the ballots to a private entity wholly unaccountable to the public.

Though this scheme has been in place since the inception of decentralization, the two city agencies and the private entity most often chosen to complete the process have yet to devise a way to properly coordinate their activities so that voters are registered and paper ballots are properly collected and counted. It is clear that the Board of Elections treats the Community School Board vote as a recurring nuisance it must deal with but need not master, while the Board of Education, for its part, points its finger at election officials as the source of its recurring nightmare.

PARENT VOTER REGISTRATION

Nowhere is the lack of coordination between the Board of Education and Board of Elections more clearly revealed than in the process of registering parent voters. Under the Education Law, all registered voters and all parents of children enrolled in schools under the jurisdiction of the Community School Boards are eligible to vote.[3] However, parents not otherwise registered to vote must register as parents and be certified as such by the Board of Education in order to be allowed to cast a ballot.[4] Thus, the statute mandates that the Board of Elections and Board of Education work together to produce an overall list of eligible voters from a pool of registered voters and parents. However, despite the legislative directive, effective coordination continues to elude the Boards with disastrous results.

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[3] The New York City High Schools are administered by a division of the central Board. Therefore, parents of students in high school are not eligible to vote as parents but may vote if validly registered for the general elections.

[4] See Education Law, Section 2590.

A History of Problems

Producing a list such as the legislature requires would seem to be a simple task. However, even the first step, identifying eligible parents, has been historically problematic for the Board of Education. Prior to 1989, the Board left the responsibility for registration and certification up to the individual principals. Under that system, the principals were responsible for confirming that each person who claimed to be a parent voter did indeed have a child enrolled in the school. They sent a list of the voters they deemed valid to the Board of Elections, who then entered the names onto the voter rolls. That system was a failure because some principals proved incapable or unwilling to register and certify parents who were in fact eligible. Moreover, many parents believed that principals were tempted, if not outright motivated, to register and certify only those who would support candidates the principal favored.[5]

[5] In fact, we have reported that at least in District 12, community school board members appoint principals who can "deliver the vote." Principals are expected to register parents who will vote for the board members who helped secure the principals' appointments (*Power, Politics, and Patronage: Education in Community School District 12*, April 1993, page 11).

Parent Voter Registration: Pre-1989

PRINCIPALS

Principals verify whether registrants are parents of a New York City public school student.

→

Principals send lists of parent voters they deem certified to the Board of Elections.

BOARD of ELECTIONS

Board of Elections enters names of parent voters onto rolls.

Problems: Principals proved incapable or unwilling to register and certify parents who were in fact eligible. Moreover, some parents believed that principals were tempted or motivated by local politics to certify only certain parent voters.

Parent Voter Registration: Vintage 1989

In 1989, at the insistence of the Board of Elections, the Board of Education divested the principals of their certifying authority. Instead, the Board of Elections sent to the Board of Education lists of approximately 50,000 people who were registering as parent voters for the 1989 election or who had registered for prior elections. Incredibly, the coordinators of the registration effort did not realize until receiving the 50,000 names that they could not verify whether the people on the list were eligible parent voters. The lists the Board of Elections sent did not contain sufficient biographical information about the registrants to do the necessary cross-checking with the Board of Education's central files.

Lawrence Becker, Counsel to the Chancellor, recognized that the Board would be held responsible if a list of eligible voters was not forwarded to the Board of Elections. However, the Board of Education's operations staff made clear that verifying parent eligibility through field checks would be a practical impossibility. Thus, Becker directed Doreen DeMartini, the coordinator of the registration effort, to merely declare all the names on the list "certified" without attempting any verification.

Thus, in 1989, all those who sent in registration forms, regardless of their status as parents, were allowed to vote. Moreover, they could vote as many times, under as many different names, as they wished. Just such a scenario was demonstrated by an investigator from the Gill Commission who "voted" thirty three times despite having no children in the schools.[6]

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[6] The Gill Commission, formally known as "The Joint Commission on Integrity in the Public Schools," had an investigator cast ballots in two districts in Manhattan. In order not to influence the vote, the investigator intentionally voted in a manner that invalidated the ballot.

Parent Voter Registration: Vintage 1989

BOARD of ELECTIONS

Board of Elections prepares Parent Voter Registration Forms.

→

Board of Elections sends forms to parents of New York City schoolchildren.

PARENTS

Parents fill out the registration forms.

↓

Parents return forms to the Board of Elections.

BOARD of ELECTIONS

Board of Elections receives forms, and prepares a list of registrants.

←

Board of Elections sends list of registrants to the Board of Education, including parents who registered for elections prior to 1989.

BOARD of EDUCATION

Board of Education cannot verify whether registrants are eligible to vote as parents in the 1989 election, because information on lists is incompatible with Board of Education's central files.

Problems: Because the Board of Education could not verify eligibility, all 50,000 registrants were declared "certified," whether or not they were really parents of New York City schoolchildren.

Trying to Get it Right

In preparation for this election, the Board of Education and Board of Elections did attempt to learn from their mistakes. Once again, however, the efforts of the two agencies fell short and produced disastrous results. Parents at over 190 schools, all of whom had previously registered, were disenfranchised while large numbers of new registrants whose status as parents had yet to be verified were entered onto the rolls and allowed to vote. Still other parents were misinformed, misdirected, or otherwise discouraged from casting their ballot.

How did the system break down yet again? In searching for the answer, this office received conflicting testimony from representatives of both agencies. The fingerpointing itself was indicative of the lack of cooperation and communication that has plagued this process from the beginning. Nevertheless, certain truths emerged.

Repeating Old Mistakes

In preparing for the election, the first issue that the two agencies had to resolve was how to treat those 50,000 parents who became voters without any verification. Both agencies agreed that those parents could not remain on the rolls without verification this time. Not only was there the possibility that many of those on the list were ineligible to begin with, but those who were determined valid in 1989 may well have lost their eligibility in the ensuing four years. However, the same problem that the Board of Education faced in 1989, namely the incompatibility of the Board of Elections data and the Board of Education's central filing system, remained. The Board of Elections had obtained significant information

about the voter, as it did in its regular registration process, but little about the prospective voter's child. On the other hand, the school system's data base is organized according to its primary clients, the children. Thus, the Board of Education had two options: require all those who wished to vote as parents to register anew or develop some way to verify parental status at the local level. The Board chose the latter option.

Once again, the fate of prospective parent voters was left to the individual principals. In January, the central Board of Education began sending print-outs to each principal containing the names of all individuals who claimed to have a child in the principal's school. The principal was required to perform a simple task, merely to check "Yes" or "No" next to the parent's name, indicating whether the parent had a particular child in the school, and then send the list to the Board of Education, who forwarded it to the Board of Elections. According to the plan, the Board of Elections would only reenter onto the rolls those whom the principal "certified" with a "Yes." Those who received "No" classifications or whose child happened to attend a school where the principal did not respond would not be reentered.

This plan totally ignored the lessons the Board of Education had presumably learned in past elections. Once again, nothing prevented the principals from playing favorites with their certifications. In fact, the central Board of Education did little to ensure that the principals participated at all. The result was predictable and alarming. As of Election Day in May, 190 principals had failed to fill out the forms and return them to the Board of Elections. Since no action at the local level meant decertification by the Board of Elections, any parent of a child at one of those 190 schools who had registered prior to 1993 was

doomed to be turned away at the polls. According to Jon Del Giorno, the administrative manager at the Board of Elections, he repeatedly voiced his concerns about the lack of response from principals to Doreen DeMartini, from the Office of Monitoring and School Improvement. However, the Board of Education's efforts to compel compliance after being alerted to the problem were half-hearted at best. DeMartini made follow-up telephone calls to the principals but made no other effort to induce compliance. Moreover, no disciplinary measures were imposed or even considered against those who ignored the directive entirely. Finally, neither Doreen DeMartini nor Jon Del Giorno notified those in danger of being disenfranchised by the principal's failure to act. If either one had done so, those parents in danger of being knocked off the list may have been able to reregister in time.

1993: Repeating Old Mistakes

BOARD of EDUCATION

Board of Education retrieves list of 50,000 people who registered as parent voters prior to and in 1989.

→

Board of Education sends lists to individual principals.

PRINCIPALS

Principals check "Y" or "N" next to each name, indicating if the registrant is a parent of a child in that school.

↓

Principals send lists of voters they deem certified to the Board of Education.

BOARD of EDUCATION

Board of Education receives lists.

←

Board of Education forwards list to the Board of Elections.

BOARD of ELECTIONS

Board of Elections enters names of "certified" parent voters onto rolls.

Problems: This plan reintroduces the principals as essential cogs in the process, ignoring the lessons the Board of Elections learned in 1989. In fact, the Board of Education did little to ensure that the principals played their role. Consequently, 190 principals failed to respond to the Board of Elections, and parents of children at those schools were disenfranchised.

Trying Something New

Though the Board of Education reverted to its old ways in handling the old registrants, it did develop a new form and a new certification process for those registering in 1993. Unfortunately, in the implementation, time pressures and a total lack of coordination with the Board of Elections doomed this process as they had those that came before it.

This new system did have significant advantages over the old one. Most importantly, it allowed for a centralized certification process. This time, Doreen DeMartini and the Board of Education's Director of Data Services, Wayne Trigg, made sure that the Parent Voter Registration Form prepared by the Board of Elections required the parent to include sufficient biographical information about the child to allow data entry staff at 110 Livingston Street to cross-check against the Board's central files. Further, Trigg developed a system where at least some of the registration forms were pre-labeled with the student's name and a code identifying his or her parent or guardian. In this way, those involved in the certification process could quickly compare the information filled out by the registrant with the data maintained at Board Headquarters.

Finally, the two agencies agreed to a two-step process requiring each agency to perform only those tasks within its own area of expertise. The forms were sent directly to 110 Livingston Street, where the Board of Education would use its central files to verify the registrant's parental status. Then, and only then, the verified forms would be forwarded to the Board of Elections for entry on their eligible voter rolls. This approach would allow Wayne Trigg's group to utilize its extensive data on students and its knowledge of the various programs and special schools in the community school system as a whole to resolve

minor discrepancies in the forms that might otherwise lead to disqualification.[7] At the same time, the Board of Elections could limit its operation to its traditional methods of compiling voter lists and buff cards.

Despite the good intentions in the general planning stages, problems arose in implementation. As a first step in the process, DeMartini and Trigg compiled a list of the 700,000 students enrolled in schools under the jurisdiction of the thirty two Community School Boards. From that list, they created a label with each child's name on it and affixed the label to a blue Parent Voter Registration Form. DeMartini then arranged for the forms to be sent to the districts, where superintendents were to distribute them to principals who were to distribute them to students who were expected to bring them home.

Even a casual observer of the history of certification must be struck by the inherent problems in this system. The first obvious flaw was the allocation of only one pre-labeled and coded form per student. Providing forms for each parent in a given household would have served two purposes: it would have encouraged the participation of all parents and enhanced the Board of Education's ability to quickly certify applicants. Providing only one form meant that the traditional two parent household was left to fend for itself and obtain a second, unlabeled form, which could not as easily be cross-checked at 110 Livingston Street. However, despite the obvious logic of such an approach, DeMartini and Trigg made no attempt to utilize their central data base to determine which students lived with one parent and which lived with two.

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[7] For example, problems arose when the Board of Elections failed to realize that more than one school could have the same number or name in different boroughs.

Next, this plan reintroduced the principals as essential cogs in the distribution process. Incredibly, DeMartini brought the principals back into the system without providing enhanced supervision of their activities. In testimony before this office, she was asked:

> Q: Were principals given a date by which they should have the forms distributed?
>
> A: No. They were just told to do it...
>
> Q: Does the principal have to notify either the superintendent's office or your office that they have complied with their obligation?
>
> A: No. They were not asked to do that.

Furthermore, her explanation for not bypassing the principals and mailing registration forms directly to parents was altogether unconvincing:

> One [reason] is cost. Because then we would be paying to mail them plus paying for the return mail on them and then we had considered the possibility at one point and attempted to look at a design and it was a very cumbersome design and we felt it would be very difficult to put instructions in multiple languages....Perhaps it could be done.

Given the principals' track record with respect to parent voters and the central Board of Education's cavalier attitude towards compliance, it is not surprising that this office received numerous complaints from parents who did not receive forms of any kind until after the registration deadline. For example, in District 2, parents at PS 6 did not receive forms until well past the deadline. Dr. Richard Gold and his wife, registered voters in District 3, wished to vote in District 2 where their son attends PS 6. However, they did not receive any

forms until April 15, almost a week after the April 9 deadline. As a result, the Golds did not vote. Likewise, Shana Zaflow, another resident of District 3 who preferred to vote in District 2 as a parent, received nothing from her child's school until a week after the deadline. Thus she had to vote in District 3, where she was a registered voter. These were not isolated incidents. Rather, they reflect but one principal's failure to carry out even the most basic administrative tasks associated with the election. Indeed, Carmen Fariña, the Principal at PS 6 admitted that through an administrative error, she failed to send the forms out on time. According to her, the forms arrived at her school without "a dated material warning." Thus, she had no idea that it had to be opened immediately. As a result, the package intended for immediate distribution languished in the mailroom. If this situation could occur at PS 6, a school that parents aspire to send their children to, one wonders how often the scenario was repeated city-wide in schools receiving less attention.[8]

In April, the Mayor directed that the City expend substantial extra funds to publicize the upcoming election and encourage parent voter participation. Perhaps the Board of Education should have taken advantage of available funds to ensure that the most useful registration forms reached parents at the appropriate time.

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[8] The Board of Education labeled approximately 700,000 Parent Voter Registration Forms and distributed them to the Districts. However, by April 5, only 22,313 had been returned for verification.

1993: Trying Something New

BOARD of EDUCATION

Board of Education, in conjunction with the Board of Elections, prepares new parent voter registration forms. Only one form per student is pre-labelled.

→ Board of Education sends forms to district superintendents.

DISTRIBUTION

Superintendents distribute forms to schools.

↓

Principals distribute forms to classrooms.

↓

Teachers give forms to students.

↓ Students bring forms home to parents.

PARENTS

Parents fill out registration forms.

← Parents send completed forms to Board of Education.

BOARD of EDUCATION

Board of Education checks forms against its central files, and prepares list of certified parent voters.

↓ Board of Education sends list of certified parent voters to the Board of Elections.

BOARD of ELECTIONS

Board of Elections enters certified names onto voter rolls.

Problems: Time pressures and a total lack of coordination between the Board of Education and the Board of Elections doomed this registration plan. Once again, principals are depended on to distribute registration forms.

Changing Plans on the Run

To make matters worse, the logical division of labor that the Board of Education and Board of Elections had arrived at in January broke down in April. The system whereby Wayne Trigg's unit reviewed all registration forms and sent only the valid ones on to the Board of Elections for inclusion on their rolls was scrapped at the insistence of election officials.[9] By the beginning of April, Daniel DeFrancesco, Executive Director of the Board of Elections and Jon Del Giorno, the Administrative Manager, were concerned that their staff would not have time to enter all the new registrants onto their rolls if they waited for the Board of Education to pre-certify them. Their concern was fueled by the Board of Education's failure to comply with the statutory timetable for providing a list of certified voters. Thus, they insisted that DeMartini and Trigg send all the forms to them prior to performing any checks.[10]

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[9] Board of Elections and Board of Education officials gave sharply conflicting testimony with respect to whether the change in procedure had been planned all along. Doreen DeMartini testified that on April 5, she was told by Daniel DeFrancesco, Executive Director of the Board of Elections, that contrary to original plans, his agency needed to immediately receive all the registration forms in order to prepare their rolls in time. Wayne Trigg, also from 110 Livingston Street, corroborated DeMartini's version. However, Jon Del Giorno claimed that the change should have come as no surprise to DeMartini. He insisted that "she knew how the system was going to be designed because that was our whole discussion between my staff and her...my staff said there would come a point where we had to cut off them doing the precertification and we would take over that role." However, Lonnie Ranghelli, the head of Del Giorno's Data Entry Unit, had yet a third version of events. According to Ranghelli, the Board of Education deviated from the original plan from the beginning and without any request from him. He claimed that even "the first couple of batches of forms [he] got were not certified." Whatever the actual original understanding was, there can be no dispute that the Education Law required the Board of Education to provide a list of "certified voters" by April 4, something they were unable to accomplish.

[10] DeFrancesco and Del Giorno's concerns regarding the timely receipt of certified parent voter registration forms turned out to be well-founded. Despite their request that the Board of Education immediately send them all forms, the Board of Education held onto scores of forms until well after the Election. To this day, according to Kathy King, counsel to the Board of Elections, the Board of Education continues to forward uncertified forms.

Under this new plan, the Board of Elections could not avoid injecting itself into the certification process. In doing so, the whole system became more cumbersome and more prone to error. First, the Board of Education had to send those forms it received to the Board of Elections. Elections personnel then logged in all the forms including those not yet verified. Then, they sent a list of the newly logged in names back to the Board of Education for certification. Once there, Wayne Trigg and his staff attempted to match registrant to student. When and if that was accomplished, a new list was produced and delivered to the Board of Elections. Finally, Board of Elections officials who had previously logged all applicants onto their database had to weed out those who remained uncertified before creating the rolls that would be sent to the polling places.

In this manner, what began as a two-step process, with the Board of Education certifying and the Board of Elections registering, became a relay race with each agency passing lists of prospective voters back and forth before either could accomplish their goals.[11] And as with any relay, each time the handoff occurred the likelihood that one agency would fumble it increased substantially.

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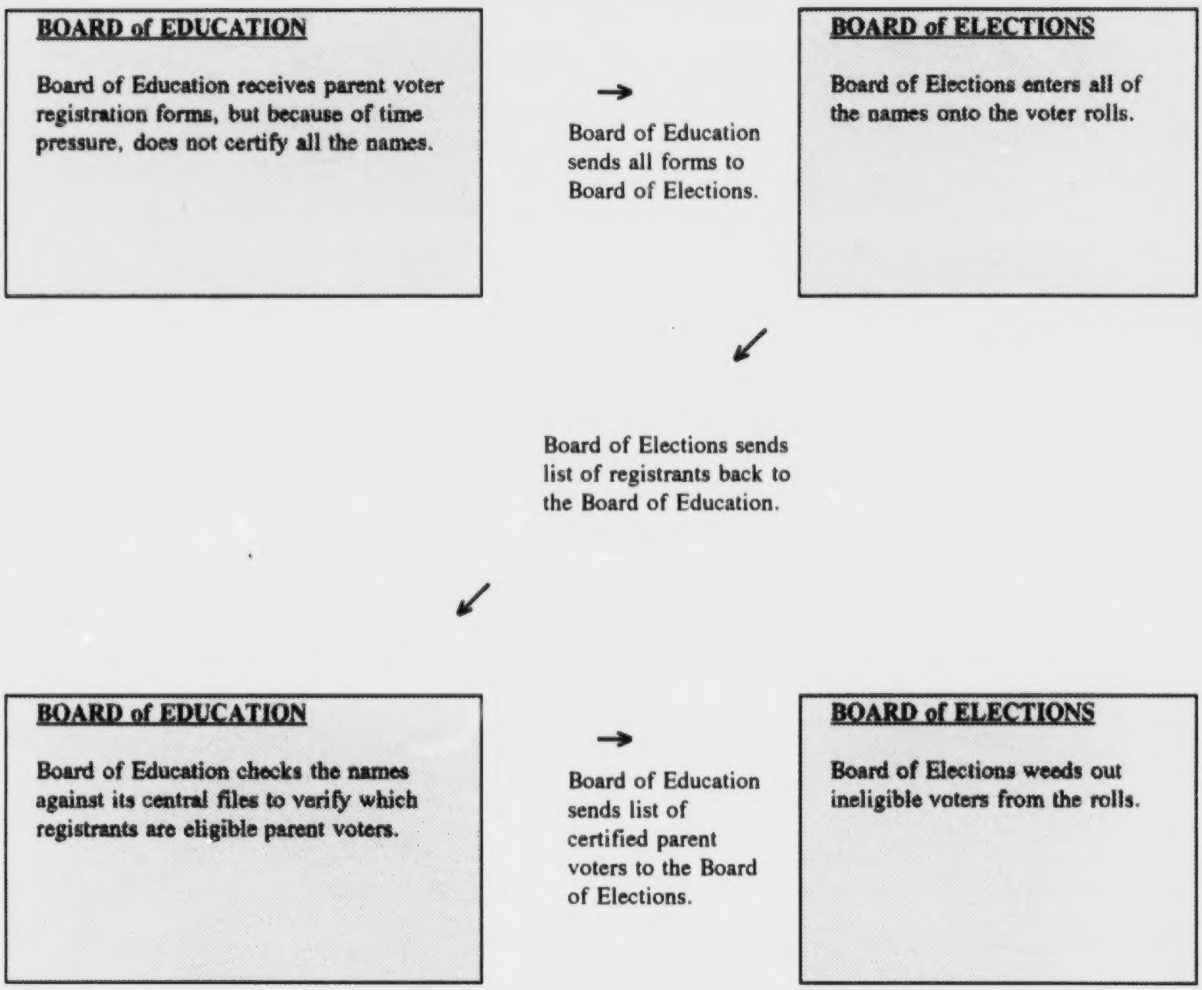
[11] The Board of Education was required by Education Law Section 2590 to provide the Board of Elections with a list of certified voters by April 4. However, meeting that deadline was impossible since under the election laws voters, including parent voters, could register up until April 9. Thus, the Board of Education was rushing to certify all valid applicants right up until Election Day and beyond. The Board of Elections, for its part, was racing to complete their voter rolls before they were due at the poll sites.

1993: Changing Plans on the Run


BOARD of EDUCATION
Board of Education receives parent voter registration forms, but because of time pressure, does not certify all the names.
Board of Education sends all forms to Board of Elections.
BOARD of ELECTIONS
Board of Elections enters all of the names onto the voter rolls.
Board of Elections sends list of registrants back to the Board of Education.
BOARD of EDUCATION
Board of Education checks the names against its central files to verify which registrants are eligible parent voters.
Board of Education sends list of certified parent voters to the Board of Elections.
BOARD of ELECTIONS
Board of Elections weeds out ineligible voters from the rolls.

Problems: What began as a two-step process, with the Board of Education certifying and the Board of Elections registering, became a relay race with each agency passing lists of prospective voters back and forth before either could accomplish their goals. This inevitably led to problems. For example, the Board of Elections left out important data when they sent the names of registrants to the Board of Education for verification, which made it impossible for the Board of Education to verify the names. In addition, the Board of Elections did not end up weeding out the ineligible names, and noncertified voters were able to vote.

The System Breaks Down Again

And fumble it they did. In the most significant miscue, Board of Elections clerks in the Manhattan Borough Office were apparently not made aware of the change in procedure. They continued entering the blue parent voter cards in the official voter books after April 5, as if the Board of Education was still "pre-certifying" them. Moreover, when the Board of Education did send subsequent lists of valid parent voters, the election clerks did nothing to weed out those cards already entered without the Board of Education's stamp of approval.

Thus, at least in Manhattan, history repeated itself. While, this time, the Board of Education did not merely "deem" all applicants "certified," the clerical error made at the Manhattan Board of Elections had the same effect. Our experience suggests that anyone who sent in a card could vote. Indeed, a person could vote as many times as he or she applied. Though no one at either agency has admitted to this faux pas, its occurrence was graphically confirmed on Election Day by investigators from this office.

James Skennion and Santiago Martinez, neither of whom are parents of students in the New York City Public Schools, submitted numerous Parent Voter Registration Forms using fictitious parents and students names. None of the cards they submitted were "certified" by the Board of Education.[12] Yet, on Election Day, those same cards were in the parent voter registration books at every location they visited. With their registration cards in place, Skennion and Martinez "voted" twenty-five times between them.

Our investigators were not the only ones affected by what became a de facto

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[12] On May 7, 1993, Doreen DeMartini delivered to this office the final list of "certified" parent voters. She indicated that she was delivering an identical list to the Board of Elections. None of Skennion and Martinez's fictitious names appeared on that list or on the earlier lists that had been provided by the Board of Education.

open-door policy in Manhattan. The spouse of an employee of this office submitted a Parent Voter Registration Form in order to vote where his child was enrolled in District 2. His form was filled out completely and accurately and was submitted to the Board of Education well within the time period for registration. Yet, he did not appear on the Board of Education's certification list. Nevertheless, his card miraculously appeared at the polls on Election Day.

Again, Board of Education and Board of Elections officials were at a loss to explain how the card appeared at the polls. However, there are only a few possible explanations. For the card to end up at the polls, Board of Elections clerks had to enter some cards into the books without even bothering to send the names to 110 Livingston Street. For it to fail the initial certification hurdle, either the Board of Elections clerks failed to include sufficient information when they sent lists to the Board of Education or Board of Education officials failed to review or were unable to certify even those forms containin_ completely accurate information. Whichever scenario explains what happened, it is clear that the process was in a shambles by Election Day.

Indeed, the variety of ways in which the certification system broke down on Election Day was almost limitless. While certain parent voters in Manhattan were allowed to vote even without certification, others were turned away even after receiving the Board of Education's approval. This office received numerous complaints from Brooklyn residents who sought to vote in the Manhattan district where their children went to school. Despite accurately and promptly applying to vote as parents and being so certified by the Board of Education, many were denied their right to do so. Time and time again, Board of Elections

clerks sorted the registration forms according to the parent's home address rather than the child's school. Thus, even after being certified, some parents were not recognized as parents in the very schools that their children attended. They were free to vote as parents in boroughs where they had no children in school, but were denied the same right in the districts where they had a vested interest.

Finally, in the most absurd example of certification run amok, former Chancellor Anthony Alvarado, now Superintendent of District 2, found his certified parent voter card in Brooklyn, where he lives, but his name was nowhere to be found in District 2, where his children go to school and where he is the chief administrator.[13]

The problems with the 1993 parent voter registration and certification effort cannot be understated. Thousands of parents never received registration forms. Thousands more who registered prior to 1990 were disenfranchised without warning. Still others were not "certified" despite meeting all the requirements and following all the rules. At the same time, others lacking any standing to vote were given free reign to cast ballots as often as time and stamina allowed. Yet, Board of Education officials claim that this year, the effort ran more smoothly than the last.[14] If that is the case, the rate of improvement is far from satisfactory. Before the 1996 election, nothing short of a complete overhaul of the process is in order.

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[13] Alvarado ultimately was able to vote in District 2 because, before the election, Deputy Superintendent Andrew Lachman discovered that Alvarado's card was in Brooklyn. Lachman convinced the Board of Elections to transfer Alvarado's parent voter card to Manhattan where it belonged.

[14] Both Doreen DeMartini and Wayne Trigg claimed that the certification process went more smoothly in 1993 than in 1989.

ELECTION DAY

The chaos, confusion and mismanagement that characterized the administration of the parent voter registration process was inevitably felt on May 4. This office received dozens of allegations of election day improprieties, ranging from Board of Elections poll site inspectors directing people to vote for specific candidates to a candidate rifling through ballot boxes. Just as disturbing as the individual illicit acts, though, is the picture that emerges of the day itself. The complaints reflect, and our undercover investigators confirmed, that May 4th was a day of rampant chaos when ballot boxes were unsealed and sometimes open; ballots, roll books, and even inspectors showed up at the polls hours late; voters were forced to cast their votes without a modicum of privacy; candidates openly campaigned at the polls; and voters were shuttled to and from different poll sites as time and time again, their voter registration cards did not appear in the proper roll books. The confusion was so pervasive that one undercover investigator voted twice at the very same poll site, each time before the eyes of the same inspector. On May 4th, voters were faced with a daunting obstacle course, and only those with the most persistence, endurance, or luck succeeded in casting a ballot that, in the end, was counted.

The Election Day experience of Investigator Santiago Martinez exemplifies the chaos and confusion that characterized Election Day. A Queens resident, Martinez has no children attending New York City schools. Yet he voted ten times in the 1993 Community School Board elections. Martinez used fictitious names to register multiple times as a parent voter.

Each time he voted, Martinez encountered an incident that mirrored the complaints we received and typified the problems that occurred on Election Day.

Two Pools of Voters

The Board of Elections demonstrated its inability to efficiently manage the two pools of eligible voters: duly registered voters and those who registered as parent voters. Some people who registered as parent voters -- such as PS 130 Principal Lily Woo -- were either disenfranchised or forced to vote by affidavit ballot[15] because their parent voter cards were sent to the district in which they live, rather than to the district in which their children attend school. Even in those cases in which registration went smoothly and the cards were sent to the proper places, other voters were disenfranchised or, at best, forced to vote by affidavit ballot, because of obstacles they faced at the local level. At the Community School Board Election in Manhattan and Queens this year, each poll site should have had a book containing a buff-colored registration card for each duly registered voter and a book of blue cards for parent voters.[16] Despite this clear distinction between the two pools of voters, poll site inspectors -- often accustomed to working at a general election -- assumed that all voters were duly registered citizen voters, or "buff card voters." For instance, when Claudette Bryant, who registered through the Board of Education as a parent voter in District 11, went to vote at her child's school, the inspector asked for her name, then searched for her buff

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[15] Voting by affidavit ballot increases the chances that the voter will be disenfranchised, because the affidavit ballots can be challenged and because there is a complex form to fill out which can, especially for voters with limited English proficiency, be difficult. If the form is filled out wrong, the ballot is invalidated.

[16] In the other boroughs, the voter registration books were replaced by computer generated lists.

card. Bryant does not have a buff card, of course, because she is not registered to vote in the general election. Upon not seeing her card, the inspector asked Bryant her address. When he heard that she lived in another part of town, he informed her that she was at the wrong poll site. Uncertain of where to go, Bryant did not vote.

Denise Charles, another parent voter, was more persistent, and thus in the end she succeeded in casting a ballot. Having registered as a parent voter in District 29, Charles went to PS 156, where her child attends school. The inspector did not find a buff card for Charles, and told her that she was not registered to vote there. Confident that she was in the right place, Charles went home to get the parent voter confirmation card she had received from the Board of Elections. Only when she came back to the school with the card did the inspector realize that Charles was a parent voter, whose name should appear in the book of blue cards, not the book of buff cards.

Investigator Martinez was also prevented from voting by misinformed inspectors who guided him off course. When Martinez went to vote at PS 145 as "George Greene," the inspector asked him his address. When he heard that "Mr. Greene" did not live in the area, he told him that he was in the wrong place. Like the inspectors whom our complainants encountered, the inspector at PS 145 turned "Mr. Greene" away without considering the possibility that he was a parent voter.

Similarly, Investigator Martinez had registered to vote at PS 152 as a parent voter named "Vicente Quintana." When he arrived at the school on Election Day, he told the inspector that he has never been a registered voter, and that to register for the Community School Board Election, he filled out a blue card. Despite these clues that "Mr. Quintana"

had registered as a parent voter, the inspector nevertheless looked for "Quintana" in the book of buff cards. Having already voted eight times that day, Martinez knew to persist. He told the inspector that he would not have a buff card because he was a parent voter, not a duly registered voter. When the inspector found "Quintana" in the book of parent voters, she exclaimed, "I got another live one, thank God!" How ironic that Vicente Quintana was not "a live one" at all, but a fictional name made up by our investigator. Unfortunately, many parents did not clear the hurdle that arose because Board of Elections employees failed to distinguish between buff card voters and blue card voters.

Split Districts

The poor training of the inspectors extended beyond their failure to comprehend the basic structure of the Community School Board Election: voters either voted as parent voters or as duly registered voters. Parents who voted at poll sites that served as voting places for two community school districts -- known as "split district sites" -- were not even assured that they would be given the proper ballot. Thomas Edison High School in Queens served as a poll site for Districts 28 and 29. But at 8:30 a.m., when James Kennedy, a registered voter in District 29, went to vote, only District 28 ballots were available. The inspector gave Mr. Kennedy a District 28 ballot and told him to write the names of his choice District 29 candidates on the bottom of the ballot. The inspector then put Mr. Kennedy's ballot in the District 28 ballot box, practically ensuring that his vote would not be counted.

When Mr. Kennedy's son Chris went to vote about 45 minutes later, he was given the same instructions. But Chris Kennedy, understandably afraid that his vote would not count if

he used a District 28 ballot, preferred to wait to cast his vote until the District 29 ballots arrived. He was finally able to vote at 10 a.m., four hours after the poll site was scheduled to open. Concerned as well that his father's vote would not be counted, Chris Kennedy complained to the director that his father had voted for District 29 candidates, but that his ballot had been placed in the District 28 box. The director told Kennedy not to worry. He had opened the ballot box and shuffled through the ballots to find the ones that did not belong there. He assured the concerned Kennedy that he took those ballots out and put them in the District 29 box. As we discuss elsewhere, the regulation that boxes be sealed was routinely ignored citywide.

When the District 29 ballots finally arrived at Thomas Edison High, confusion persisted. Cynthia Clandenine, a registered voter in District 29, was given a District 28 ballot because, the elections worker explained, "your last name begins with C." For reasons known only to them, the inspectors gave District 28 ballots to those voters whose last names begin with the letters A through L, and District 29 ballots to those whose last names begin with the letters M through Z. When Ms. Clandenine arrived at the polls, she complained to the site coordinator, who finally explained to the inspectors what they were doing wrong.

What happened at Thomas Edison was representative of the disorganization that prevailed at split district sites throughout the City. At PS 130, a split district site for Districts 25 and 26, only District 26 ballots were available. The coordinator notified the Board of Elections at 6 a.m. that District 25 voters would not be able to vote, but by 1 p.m. she still had not received the District 25 ballots. At August Martin High School in Queens -- another split district site for Districts 28 and 29 -- the coordinator did not provide District 28

ballots until 9:30 a.m., when a *voter* found them, unopened, in a corner of the gymnasium. The coordinator of that poll site admitted that she did not know that her site was a split district site until late in the morning. "I don't think they elaborated sufficiently on the split district aspect of the election," she said of the training provided for poll site inspectors.

Late Arrivals

Even voters who were not at split district sites were prevented from voting because ballots, roll books, and other crucial materials arrived at the poll sites late. Ballots did not arrive until 11 a.m at PS 36 in Manhattan. At a Brooklyn poll site, the parent voter book did not arrive until 9 a.m., three hours after the polls were scheduled to open. At a District 24 site in Queens, the key to the voter registration books was not located until a half hour into the morning. And on Staten Island, two inspectors did not show up at PS 8 until 9 a.m. When they finally arrived, they found the register books and ballots on the floor behind the table. Voters who came to vote before 9 a.m. had to find their way to another voting table and vote by affidavit ballot.

No Controls On Voting Twice, or Three Times, or...

While obstacle after obstacle blocked legitimately registered parent voters, cheaters were not pulled out of the race. To vote at PS 192, Investigator Martinez used the name "Alejandro Brito," and claimed that his child attended the school. Despite the Board of Education's elaborate system for rooting out such fraud, "Mr. Brito's" parent voter card arrived at PS 192 on Election Day. Even if the Board of Education had successfully

completed its certification process and disposed of the fraudulent card, an imposter like "Mr. Brito" still could have cast a ballot. At the poll site, the inspectors simply asked "Mr. Brito" his name and had him fill out a ballot and stuff it in the box. The inspector did not even confirm that "Mr. Brito" had a blue card, let alone require him to sign it. We will never know how many people walked in off the street, claimed to be parent voters, and voted at that poll site.

Opened Boxes

The official rules of the Community School Board Election specify that all ballot boxes should be sealed shut until the ballot count begins.[17] This crucial rule safeguards against fraud and errors that could affect the election's outcome. But we found that sealed boxes were the exception, not the rule, on Election Day.

The inspector at Thomas Edison High School who moved James Kennedy's ballot from one box to another was only one of many people who reached into the ballot boxes and accessed the ballots. At PS 165 in Manhattan, one of our investigators, working undercover as an inspector, witnessed a Board of Elections official remove the lid from a ballot box and rifle through the ballots. And Lorraine Lurie, an inspector at PS 44 in Manhattan, told us that whenever an inspector realized that a ballot had been placed in the wrong box, he or she

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[17] *The Election Officers' School Board Manual, Training Edition*, p.4. See also Election Law section 8-102.

simply opened the box, removed the ballot, and placed it in the correct box. When the polls closed, the PS 44 inspectors opened the boxes and proceeded to count the ballots.[18]

The complaints we received parallel our investigators' experiences. Ballot boxes were unsealed at most of the polling sites where our undercover investigators voted. Investigator James Skennion, who voted 15 times, encountered unsealed boxes at several locations. When he asked an inspector at PS 33 in District 2 why the boxes were unsealed, she replied that she and her coworkers did not tape the box because they were "lazy." She assured Skennion that he need not worry; the inspectors would see to it that no one tampered with the boxes. Later in the day at PS 158, as Skennion went to vote for the eleventh time, he noted yet another unsealed box. He casually lifted the lid off the ballot box and placed his ballot in the box. The inspector just laughed.[19]

Local Rules

Throughout the day, "local rules" governed the election because misinformed inspectors were not aware of the official rules. For example, in addition to the names on the ballot, a voter may vote for an unlimited number of "write-in" candidates by writing the candidates' names on the bottom of the ballot. However, this information was news to many inspectors. One voter complained to this office that the inspector told her she could only vote for three people. Investigator Martinez got first-hand experience of this confusion. An

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[18] At the end of the day, inspectors are required to record the number of ballots cast in each box. To figure out how many ballots were cast, the inspector is supposed to check the number of the next ballot that was available for use. This is supposed to obviate the need to open the box and count the ballots.

[19] Both Investigators Skennion and Martinez wore concealed recording devices when voting. In addition, for much of the day, they were followed by another investigator carrying a concealed video camera.

inspector at PS 189 told Martinez -- this time voting as "Frank Ocacio" -- that he could vote for only ten candidates. And at PS 52, an inspector told Martinez (a.k.a "Albert Feliciano") that he must limit his choices to nine. One District 13 voter complained that the inspectors instructed him to put an "X" next to his candidates of choice, an error that would invalidate his ballot.

Another rule that was at the mercy of local employees was that regarding sample ballots. Except for a slight difference in color, the sample ballots for the Community School Board Election were identical to the official ballots. In fact, even the sample ballots read "Official Ballot for Community School Board Members." Nowhere were they marked "Sample Ballot." Not surprisingly, many of these ballots ended up marked, in the boxes. In one district in Chinatown, sample ballots ended up in the ballot box. The Board of Elections realized that for a good portion of the day, the inspectors were giving out the cream-colored sample ballots, rather than the official white ballots. So as not to disenfranchise voters, the Board of Elections decided to count the sample ballots from that election district.

Other makeshift rules at certain poll sites did nothing to infuse the election with a sense of uniformity, professionalism, or integrity. According to New York State Election Law, voters are permitted to mark their paper ballots with pen or pencil. Given the fact that a large number of boxes were left unsealed, many voters who were provided with pencils were understandably wary that their ballots would be erased and renumbered. To add to the confusion, many inspectors and police officers on duty did not know if voters were supposed to use pen or pencil.

The voting procedure varied from district to district. The official Inspector's Handbook clearly states that the voter should hand his or her ballot to the inspector, who should place the ballot in the ballot box. Yet, our undercover investigators were sometimes told to place the ballot in the box and sometimes told to hand the ballot to the inspector. The lack of uniformity increased the appearance of, if not actual, impropriety. Voters reported that they felt the election was shoddily run and that they doubted the integrity of the process.

Voting in Public

Even if the Board of Elections inspectors guided voters to a successful finish with correct information, the voters were forced to exercise their franchise in public. The "voting booth" provided for privacy was, at best, a cardboard divider. At worst, it was a bench with three other people huddled next to the voter. While Investigator Skennion voted at PS 158, another investigator walked up behind him -- uninterrupted -- and took a photograph of Skennion marking his ballot.

Bad Training

Poll site inspectors were clearly unaccustomed to working at an election with paper ballots, proportional representation, and two pools of eligible voters. They were misinformed about many rules, from small but significant details like whether one should vote in pen or pencil, to elements crucial to the election's integrity, such as how many candidates a voter can vote for and how and when to count the ballots.

Some of this confusion no doubt resulted from the fact that inspectors are expected, but not required, to attend a training class to prepare for the Community School Board Election. Those who do not attend are still permitted to work. Not surprisingly, about 25% of the poll workers who worked on Election Day did not attend a training session. Even those who do attend the training session are not likely to retain everything they need to know to be efficient workers. "Many inspectors forget the procedures or the biggest problem is many inspectors don't show up to training. And an untrained poll worker will make mistakes...," Jon Del Giorno said.

Electioneering at the Polls

The chaotic atmosphere at the polls was not solely the product of incompetent inspectors. Candidates and their supporters played their role in the circus-like elections, campaigning in the polling places, approaching voters to "suggest" candidates, and even using schoolchildren to electioneer for them.

Throughout the day, people electioneered at the poll sites, an activity that violates both the New York State Election Law and the Chancellor's Regulations. One poll site inspector watched a District 7 candidate approach voters as they were voting at the Gilbert Ramirez Senior Citizens Home and repeat her slogan, "Carmen Arroyo #1." She even leaned over the shoulder of one voter and pointed to her name on the ballot. When voter Robert Weiner went to vote at PS 105 in District 11, a woman offered him an "approved" list of candidates.

Candidates and their supporters took advantage of the chaotic atmosphere by trying to pass themselves off as Elections officials. In District 32, supporters of candidate Tito Velez set up a table outside the school to look like an official elections table. They posted official Board of Elections signs that read "Vote Aquí," and juxtaposed them with posters proclaiming Tito Velez as the number one choice. In District 24 in Queens, supporters of candidate Daek Lee Pak accompanied Korean voters into the polls and walked them through the voting process, translating for them as they went along. At PS 52, Investigator Martinez went through the entire voting process without interacting with an inspector. A woman with no Board of Elections identification handed him a ballot and explained to him how to vote. She took the opportunity to include some extra advice. "Well, we as parents of this school we are supporting Mrs. Jackson," she said. She also suggested that Candidate Lisando would be a good choice. She then instructed Martinez to place his ballot in the box.

When he voted at PS 189, a woman who identified herself as a PTA member approached Investigator Martinez, who was posing as "Frank Ocacio." Enjoying free access to the polling area, the PTA mother went right up to him as he was marking his ballot and offered her assistance. She showed him a list of candidates on a yellow piece of paper and advised, "These ten here, from the yellow one, it's a very good decision." The woman's words of wisdom to our undercover investigator at PS 189 capture the essence of the Community School Board Election. "Be careful with your vote, because that vote is worth a lot of money," she warned him. "Look, power and everything. So then, be very careful."

In District 21, an undercover investigator observed as the Education Slate's attorney, Robert Muir, injected himself into the process. As a voter was about to cast her ballot, Muir

purposefully created a commotion, complaining loudly that the inspectors were favoring certain candidates. When the argument that ensued diverted everyone's attention, Muir took the opportunity to tell the voter for whom to vote.

Even Board of Elections officials offered their advice as to who were the best candidates. As Investigator Martinez voted at PS 192, a poll site inspector directed him to "vote for the Hispanics, my son." Given this active campaigning on the part of Board of Elections inspectors, it is easy to imagine how voters had so little confidence in the integrity of the election. What voter wouldn't hesitate to hand a paper ballot to an inspector who actively supported certain candidates?

The examples we cite in this report are not the isolated mishaps of an otherwise orderly day. Rather, these stories illustrate the patterns of confusion and ineptitude that characterized Election Day. The complaints we received from voters, inspectors, candidates, and other involved parties indicate that the same problems were repeated again and again throughout the City. Perhaps the election is best seen through the eyes of Elliot Miller, a new Staten Island resident who voted this year for the first time in the New York City Community School Board Election. "I was appalled by what I saw," Miller said, noting the absurd lack of privacy and the fact that he was given a pencil to mark his ballot. "Where is the integrity of the election here?"

COUNTING THE BALLOTS

When the last School Board Election was completed in 1989, observers reported irregularities in the counting of the ballots. Specifically, investigators and journalists noted that ballots had disappeared, ballot boxes seemed to have been tampered with, and ballot counters appeared incompetent at best and, at worst, under the influence of drugs or alcohol.

Dissatisfaction with the process led the State Legislature to consider several bills that would have radically altered the present system. In fact, to allow time to accomplish that task, the election was moved from 1992 to 1993. However, no reform legislation passed. Thus, it was up to the Board of Elections to work within the existing framework to come up with a more professional, efficient count for 1993. But, despite the horror stories reported in 1989, the Board of Elections exerted little effort to ensure a more satisfactory result this year. Indeed, as they carried out the task of organizing and overseeing the ballot count, the Board demonstrated an attitude of indifference toward the Community School Board Election.

There was general agreement that some sort of automation should be used to minimize human error in 1993.[20] Nevertheless, the Board waited until December 1992 -- less than six months before the election -- to solicit information about ways to automate the counting of the ballots.[21] Even then, the Board made no real effort to search for organizations with experience in running automated elections. To aggravate matters, the

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[20] According to former Board of Elections Commissioner Alice Sachs, the members of the Board of Elections had agreed that an election utilizing machines would be more efficient and more accurate.

[21] Board of Elections Administrative Manager Jon Del Giorno claims that the Board got such a late start because they expected legislative action.

Board distributed a confusing, uninformative contract. In its request for bids, the Board of Elections made no attempt to define what they meant by "automation." The Board even asked potential contractors to provide "computer illiterate employees."[22]

Once the Board of Elections awarded the contract, they left responsibility for ensuring the integrity of the count to the winning bidder. However, the company that the Board of Elections hired to run the count, Proportional Count Associates (PCA), exhibited little interest in ensuring that the ballots were counted properly and that fraud, or the appearance thereof, did not taint the process. PCA employed candidates' relatives and friends to count ballots, used untested computer software, shuffled ballots from district to district, and handled key items with the utmost carelessness. The existence of these appalling conditions would cause anyone to question the election's results. Indeed, we found that the problems with the ballot count did not end with the appearance of impropriety. Confirming voters' fears, the one pile of ballots we spot-checked contained votes that were credited to the wrong candidate.

Contracting Out

As it has done every three years since the school system was decentralized, the Board of Elections contracted with an outside firm to count ballots. But, despite public dissatisfaction with the 1989 count, the Board exerted minimal effort to reach out to new firms. In December 1992, Jon Del Giorno, the Board of Elections Administrative Manager, met with the two agencies who had manually counted the ballots in the past, Honest Ballot

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[22] See Conducting The May 4th Community School Board Election Count By Automation and Proportional Representation, The City of New York Board of Elections Contract, page 9.

Association (HBA)[23] and Proportional Count Associates (PCA).[24] Then, after the two meetings, the Board of Elections advertised the contract for only one day -- February 25, 1993 -- in the *City Record*. In fact, neither HBA nor PCA, the only two agencies who showed up at the pre-bid conference the next month, learned of the contract through the advertisement. Rather, they relied on their contacts within the Board to learn of the timetable and requirements.

The Pre-bid Conference

As they went through the motions of recruiting vendors, it became increasingly clear that the Board of Elections was investing minimal time and effort into setting up the 1993 election. The Board exhibited its indifferent and careless attitude at a pre-bid conference in March, when potential bidders presented the Board with their questions about the contract. For starters, a potential bidder who attended the conference pointed out that even the most basic information, such as when the bid was due, was left out of the contract proposal.

Further confusing vendors, the contract called for an "automated" count, but the Board of Elections left the bidders to define that key term. Rather than explain how they wanted the vendor to automate the process, the Board merely passed along a request by people who were concerned that the election be conducted efficiently. "We don't specify the automation, type of programming," Del Giorno told potential bidders, "but we're requesting

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[23] HBA performed the count in 1986. They had earned the contract in 1986 as the lowest bidder, but their competency was challenged by Archibald Robertson of PCA. After a hearing, HBA retained the contract, however the Board of Elections had sided with Robertson at the hearing. As a result, HBA remains suspicious of the relationship between PCA and the Board of Elections.

[24] PCA performed the count in 1980, 1983 and 1989.

that it be in an automated fashion, which is a request by the School Board Coalition members." Even when the potential bidders repeatedly attempted to narrow the request so they could evaluate whether they were equipped to do the job, the Board declined to specify what they meant by "automation."

Throughout the conference, the Board provided vendors with vague or, equally as frustrating, conflicting information. The lengthy contract specified that the vendor *would not* have to post a performance bond, an expensive requisite that, if required, could turn away a vendor. At the conference, however, Del Giorno -- either not anxious to attract new bidders or just unfamiliar with the contract -- said that the vendor *would* have to pay for the bond. He added that the Board would evaluate requests to waive the bond on an individual basis. Whether the failure to point out the waiver provision was deliberate, negligent or accidental, HBA President Murray Schwartz reported to us that his uncertainty over whether the bond would be waived was instrumental in HBA's decision not to submit a bid for the contract.[25]

Board of Elections representatives had trouble answering a variety of other inquiries, from questions about the escrow account which would hold the vendor's computer software to the simple question of whether the Board would provide tables and chairs for the count. Del Giorno's comments at the pre-bid conference in part explain why participants were left without more guidance:

> You know, from the Board's position -- I think part of the problem is that we're trying to -- we're running -- we're administrating an election for another group -- trying to satisfy their needs...

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[25] In 1986, HBA was forced to obtain a bond. However, the bond was waived for PCA in 1989 and again this year.

Awarding The Contract

As a result of the Board's lax attitude and poor planning, only one vendor -- the one who performed three of the last four counts -- submitted a bid for the contract. Unchecked by the regulatory forces of competition or effective supervision, PCA delivered a performance that was far from satisfactory.

The Software

As we have stated, one of the Board of Elections' main objectives for the 1993 election was to contract the count to a company that would automate the tally. But PCA -- the vendor they secured to do the job -- had no definitive computer plans or equipment when they won the contract. As of March 12th, when the bid was filed, PCA President Archibald Robertson had no binding contract with Jamie Darnow, the computer consultant he eventually hired to create a software program and to supply computer equipment for the count.[26] When they finally did agree on a plan, PCA decided to fully computerize only one district. The program determined how many of the paper ballot votes went to each candidate, obviating the need for a manual count. The other thirty one districts only used a computer to record and add figures the tally clerks had already counted by hand. It also randomized the draw of ballot boxes. Though Robertson professed amazement at the program, Darnow described it as strictly "Computer 101."

Perhaps one of the reasons the Board of Elections had to settle for such a basic computer program is that they never even consulted with their own computer unit about the

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[26] Robertson and PCA did not posses any automation equipment, nor did they have the capacity to computerize. They had never performed anything but a manual count.

software, either before or after they awarded the contract. Lonnie Ranghelli, the Board's Manager of Systems Programming and Operations, had no input into the contract. He was not present at the pre-bid conference, where he could have answered questions about the request for an "automated" system. Before the contract was awarded, no one asked his opinion on PCA's program. After the contract was awarded, Ranghelli was asked to look at the software, but he never did. Nor did he check on the count as it was proceeding. When we asked Ranghelli if he had seen District 32, Robertson's "experimental" site which might have served as a model for future School Board elections, Ranghelli replied, "I wouldn't know where District 32 is."

Even though the computer program was hardly state-of-the-art, the Board of Elections would never know how extensive or effective the system they paid for was, because they never tested it. Originally, they had planned to test the software after they awarded the contract because they did not have time to evaluate the potential programs before choosing one. But apparently by the time the vendor was chosen, the Board of Elections lost interest, for no one from the Board evaluated the program. "We demonstrated it, but I don't believe anyone from the Board came," Robertson told us. "I have found that out to be true," Del Giorno confirmed. "There was testing done by the vendor, but not with any of my people supposedly present."

The Count

The Board of Elections, clearly annoyed that they were stuck with administering this election for "another group," did not seem to care whether the count was done properly.

Thus, the public's last hope for quality control was PCA. This hope was slim, however, given that organization's past performance. True to form, PCA did not ensure the public that the ballots were counted impartially and honestly. As a result, the count as it was conducted left many people doubting the accuracy and integrity of the results. We focus on some of the more illustrative occurrences that characterized the circus-like counting of the ballots.

When the last ballot and stub were placed in the respective boxes on Election Day, the boxes were sealed and taken by the police to the local precincts. The next day, the boxes were grouped by borough and transported to five warehouses. The boxes remained there, under police guard, while Board of Elections officials examined affidavit and absentee ballots. PCA was scheduled to begin the count at 9:00 a.m. on May 13, 1993. They would work every day until they counted all of the votes and determined the results.

Hiring

The lack of quality control began right at the beginning, when PCA geared up to hire a work force. A shell organization, PCA hires a full "count force" each time it contracts to run an election. In this case, Robertson hired his friends and relatives and political referrals without questioning potential employees to determine if they had an undue interest in the election's outcome. As site directors and assistant site directors, Robertson hired his son Randy, Randy's fiancée Elizabeth Siemsen, Robertson's associates Enrique Ramos and Kevin Hanlon, Diane Hanlon, Richard Hanlon, Sara Hanlon, and Kevin Hanlon's brother-in-law, Al Virgo. The tally clerks, who actually count the ballots, were not interviewed.

PCA's staff training was no more scrupulous than its hiring procedure. Robertson boasted of an exacting training program for site directors. He arranged three training sessions that were held in April and May. In actuality, however, few if any directors attended more than one session. One of the training directors (Robertson's son Randy) had never before participated in a count. Robertson also made sure there was a "computer training" requirement. But all participants had to do was read a manual and watch a sample count. No substantial efforts were made to ensure that the site directors, who would be supervising all of the workers at the count sites, were well prepared. PCA arranged no training at all for tally clerks before the day of the count. Instead, the counters received "on site" training from the directors the day they arrived on the job.

All In The Family

It was not long before PCA's failure to properly screen its employees resulted in an absurd situation. The count agency hired Keith Saunders, the son of District 11 candidate Rodney Saunders, to count District 11 ballots. An investigator from this office went to the site and informed site director Joe Ortiz of this blatant conflict of interest.[27] Ortiz did not seem particularly concerned about the information, but at the insistence of our investigators, he removed Keith from the count tables and assigned him to move boxes. Nevertheless, within a few minutes, Keith made his way back to the counting tables. Again Ortiz did not seem concerned. Even after Robertson -- who learned of the situation from our

[27] Ortiz, a veteran of Community School Board Election counts, first became a site director in 1980. According to Ortiz, he was referred to Robertson by the Bronx Democratic Club run by Stanley Friedman. Assemblyman Hector Diaz, who was then district leader, asked Ortiz to apply for the job. In 1980, 1983, and 1989, Ortiz handled the count in District 12. Ortiz was not involved in 1986.

investigators -- told Ortiz to dismiss Keith immediately, it was well over an hour before Ortiz got around to carrying out the command.[28] Ortiz later explained his delay by saying, "I was too busy."

After the count, in testimony before this office, Ortiz explained how he came to hire a candidate's son to count ballots. Ortiz recalled that on the morning of the count, he was complaining about his lack of staff when a woman named Mrs. Saunders, who introduced herself as the district leader of Coop City, said her son was available to be hired. "I looked at him, he looked like an intelligent young man, we spoke a few minutes and I said, yea sure, why not," Ortiz testified.[29] When he found out that Keith was the son of a candidate, Ortiz said, he saw no reason to remove him. Demonstrating PCA's failure to institute quality control checks, Ortiz testified that in all his years as a site director he never once inquired about relationships between his employees and candidates.

In fact, the Board of Elections' contract forbids PCA from hiring any member of a candidate's immediate family to count ballots in that candidate's district. But, like so many other rules governing the count, lack of oversight or enforcement rendered the regulation virtually useless.

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[28] When first challenged by this office, Robertson assured us that it was impossible that Keith Saunders could be working at the District 11 count site. Only when confronted a second time did Robertson acknowledge the truth and agree to order Saunders' dismissal.

[29] Ortiz had two other last minute hires as well. Diane and Sal D'Ambrosio appeared at the count site and said they had been referred by Bronx County Democratic Chairman George Friedman. They were hired on the spot.

You've Got A Friend

In other districts as well, those who were hired to count ballots had close relationships with candidates. In District 13, several candidates and their representatives complained that individuals who had worked actively on candidate Marilyn Mosely's campaign were working as tally clerks at the site. When the site director, Bernice McCallum, discovered that the allegation was true, she promptly dismissed the clerks in question. Though the site director acted appropriately, the situation should have been avoided by quality control checks, such as employee screening.

Instead, PCA relied upon the judgement of the individual site directors to ensure integrity. McCallum took immediate action upon learning about the relationships because, she explained, she "thought it was appropriate," not because she had been trained to do so or because of any rule. One can only guess how many other relationships simply went undetected, were deliberately kept quiet, or were considered "irrelevant" by a site director.

Public Skepticism

One of the inherent problems in counting paper ballots on which voters list numerous choices is that two competing interests need to be satisfied. On the one hand, the complexity of the count and sheer volume of paper to be sorted necessitates some extra measures to ensure accuracy. At the same time, those very factors, by themselves, invite greater skepticism and greater scrutiny by the public. This dilemma was dealt with differently at each count site. Site directors tried to strike a balance between the absolute right of the candidates' representatives under the Election Law to observe every aspect of the count and

the need to prevent undue interference. The results of their efforts were mixed at best. In the end, the lack of uniformity aggravated the public's perception that certain candidates were receiving preferential treatment.

Though candidates are entitled to have two representatives and two observers at the count site who are entitled to move anywhere within the count area,[30] PCA's interpretation of this rule varied from site to site. In Staten Island's District 31, the site director strictly enforced a rule created by Robertson that mandated that observers stay three feet away from the counters because, he explained, the count is "not a spectator sport." The District 11 site director waived the rule when he felt it was appropriate. District 13 observers were even more frustrated, when the site director, attempting to enforce the "three foot rule," apparently had trouble distinguishing between a foot and a yard, and made everyone stand back nine feet.

At many districts, the observers' view of the counting process was further obscured because the computer screen faced away from onlookers. Thus, even when a counter entered data correctly, observers denied access had reason to doubt the honesty and accuracy of the operation.

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[30] Representatives have "full authority to move anywhere within the central counting quarters for the district, to inspect all activities of the count without interfering therewith and to exercise all rights conferred on watchers under the election law." Observers "shall be given facilities for keeping in full view all ballots outside of containers and all containers of ballots at all times when such ballots are not being sorted or counted, from the time when the ballots first arrive until all ballots have been placed in containers and removed for safe-keeping at the end of the count." Education Law Section 2590-c(6)(c)(2)(3). The law also provides for attendance by candidates, the media and the public. See Education Law Section 2590-c(7)(27).

Mishandled Items

PCA's careless handling of items such as ballots and computer diskettes containing election results only aggravated public suspicions about the integrity of the process. During the count at District 10, an unidentified person appeared at the count site with several District 10 ballots. Site Director Albert Virgo[31] took the ballots and gave the stranger approximately thirty District 11 absentee ballots that he had come across earlier in the day. When we questioned Virgo later, he said that he thought the man to whom he gave the ballots worked for PCA, but he admitted that he could not be sure. "But, um, he told me his name. I, I really don't know what it is. It was Vinny something, I'm not really sure. Um, I do not know," Virgo explained. Even if Virgo had thought to ask for identification, the inquiry would have been pointless. PCA does not provide any of its employees with identification -- another example of lack of quality control.

When the District 4 count ended, site director Enrique Ramos lost the computer diskette containing the results. Without the diskette or a backup on the computer hard drive, the ballots would have had to be recounted. As it turned out, the tabulations had been saved on the hard drive and were ultimately retrieved. Yet, what was most alarming was Ramos' blasé reaction to his blunder. Jamie Darnow, who had been summoned to retrieve the lost information from the computer's hard drive, reported that Ramos "thought it was very funny" that the disk was gone. "Ricky was running around talking about it being no big deal and laughing about it," Darnow said. The diskette was found on Thursday behind the back seat of Ramos' brother's car.

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[31] Virgo is the brother-in-law of Kevin Hanlon of PCA. This was his first count.

PCA even failed to carefully track the locations of boxes full of ballots. A preliminary count of boxes at the District 13 site indicated that three boxes were missing. Robertson was not concerned about reports of missing boxes, he said later, because one of his employees at his headquarters was charged with the responsibility of locating them. "In most cases they were found, so I didn't get involved in worrying about which boxes were missing," he said. The boxes were not found by the third day of the count, so Robertson went to District 13 and tried -- to no avail -- to find them. The three boxes were never found.

According to Robertson, the Board of Elections later explained that two of the three boxes never existed. No ballots were cast in those two election districts, so ballot boxes were never assembled. The third box, they said, did exist and contained 13 ballots.[32] In testimony before this office, Robertson, who said he was "proud of the fact that we found almost all of [the missing boxes]," demonstrated his lack of regard for each and every vote.

Q: The District 13 count went on as if those thirteen people had never voted?

A: Had to.

Q: And so those thirteen people voted for nothing, in effect?

A: Their ballots never came to me to be counted.

In District 31, a useless hunt was conducted for two missing boxes, which actually never existed. In fact, the two election districts represented by the "missing boxes" were

[32] Robertson testified that 13 ballots disappeared. A candidate's representative reported that the missing box actually contained 16 ballots.

disbanded before November 1992, months before the Community School Board Election.[33] But because PCA used an old list of election districts, which included the two defunct districts, they expected the boxes to arrive at the count. Board of Elections officials told Robertson before the count began that the two boxes would not be sent to the count site. But Site Director Bruce Hogenauer still initiated a search when he did not see the two boxes. "I am not sure I fully appreciated the significance of the information I passed along myself," Robertson said later in an attempt to explain the mixup.

White Sheets/Green Sheets/Stubs: What Are They For?

Public suspicions about the integrity of the process were heightened further when some of the institutional safeguards against ballot loss and or ballot stuffing were ignored. When the polls closed at 9:00 p.m. on May 4, each Board of Elections inspector was supposed to determine the number of votes cast at his or her poll and record it on a green certificate and a white certificate, which were sent along with the box to the count site.[34] Each box was also accompanied by a "stub box" containing a ballot stub to correspond with each ballot cast. The purpose of the certificate process and of the ballot stubs is to guard against ballot stuffing or ballot stealing. If the number on the certificates and the number of stubs do not match the number of ballots in the box, officials would be alerted that something is amiss.

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[33] This according to Barbara Kett, Chief Clerk of the Board of Elections Staten Island Borough office.

[34] The inspectors are not supposed to actually count the ballots cast, although in some cases they did, as we described earlier in this report. Instead, the total is determined by looking at the number of the next unused ballot.

However, many PCA counters failed to heed such warnings. Those who chose to check the certificates or stubs at all often discovered that the number on the certificate did not match the number of ballots in the box. Nevertheless, Robertson instructed his employees to continue counting.[35] In fact, the director of the District 11 count, Joe Ortiz, testified that the counters would continue counting even if it appeared that a substantial number of ballots had been added to or removed from the box:

> Q: Do you care what numbers are placed on the green certificates?
>
> A: No...It doesn't concern the fact that I'm going to count what's there. My job is only that. It's not to reflect upon whether there are too many ballots in there or not enough ballots....
>
> Q: So, if the green certificate in the box said 12,000 votes, and you opened the box and there were twelve votes in there -- you would not be concerned by that?
>
> A: That's correct.
>
> Q: You would not go searching for where those 11,988 other ballots were?
>
> A: You're right.

Even the Board of Elections agreed that the sheets should not be looked at unless someone submits an official challenge to the number of ballots in the box. "The count company is responsible to tell us how many ballots are in [the box], and we would go off that count number, not what is on the canvass sheet," Del Giorno explained. The ballot stubs, another intended safeguard, are also ignored. In fact, although Board of Elections

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[35] Robertson testified that he instructed his employees to make note of the number on the certificate, "but to disregard it otherwise."

inspectors were required to collect the stubs, even Del Giorno did not know why. "I am not absolutely positive," he said. "It is probably outdated and should be taken out of the law."

Even if the carelessness and disregard for safeguards and procedure did not in fact affect the outcomes in the thirty two districts, they did have a detrimental impact. The manner in which apparent safeguards were ignored reinforced the belief that the process was not fair and impartial.

THE COST: TOO HIGH A PRICE?

As one might expect, the cost of conducting the 1993 Community School Board Election was substantial. The price paid might have been acceptable had the operation run smoothly. As we illustrate in this report, however, just the opposite occurred.

The Breakdown

The Board of Elections expended approximately four million dollars on the 1993 Community School Board election -- roughly the same cost as a general election in November.[36] This figure included printing the ballots, transporting materials such as boxes and ballots, inspector fees, the fee charged by the independent contractor who counted the ballots, and a $25 payment to police officers who used their own vehicles to open and close the polls on election day.[37] The count contract alone cost the Board of Elections almost half a million dollars this time.[38]

In addition to the costs borne by the Board of Elections, other city agencies incurred significant expenses. The cost of police manpower came out of the pocket of the New York

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[36] This is according to Jon Del Giorno, Administrative Manager of the New York City Board of Elections.

[37] The printing of ballots for the Community School Board election is particularly expensive, in part because there are 32 different ballots and within each the candidate names must be rotated so that each has a turn at the top. This is done in case a significant number of voters merely write one through nine for the first candidates. Despite the fact that this is a non-partisan election, the same number of inspectors are employed -- two democrats and two republicans per table.

[38] The actual contract bid was $423,585.00. Archibald Robertson testified that he would be submitting a bill requesting ten percent above the contract price -- which he did -- as is permissible under New York City guidelines. Thus he was paid $473,385.00. Again this might be acceptable had Robertson actually paid his site directors the $2,900 budgeted in his bid. Site directors testified, however, and Robertson admitted, that most directors contracted for and were paid $1,000 for their services at the count.

City Police Department. While in a general election police officers are assigned to the polls from 6:00 a.m. to 9:00 p.m. on Election Day, the Community School Board Election, as it is currently conducted, requires police guards from the moment the polls open on Election Day until the count is finished weeks later.[39] The resulting cost -- for merely watching boxes -- is staggering.

Until the start of the count, the ballots were stored at five locations -- one in each borough.[40] It took thirty officers per day to guard the boxes, plus three sergeants per day to supervise the assignment.[41] Thus in the eight days before the start of the count alone, the Police Department paid 240 police officers and twenty four sergeants to watch boxes.

Once the count began on May 13th, one police officer was on guard at each of the thirty two count sites. Since there were three shifts per day, the Police Department paid for ninety six police officers and nine sergeants per day.[42] What this means to the average New Yorker is that from the time the polls closed to the time the count was completed, almost 10,000 crime-fighting police hours were spent watching boxes. And the cost to the Police Department? More than a quarter of a million dollars.

One final cost was paid by the Board of Education. While so many police officers were guarding the boxes, the school custodian or one of his assistants, at each of the thirty

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[39] This is prescribed by law.

[40] Ballots are cast on Election Day, May 4th, but are not counted until May 13th. During this period, the Board of Elections validates affidavit ballots and accumulates absentee ballots.

[41] Figures were provided by the New York City Police Department. The Police Department regulations prescribe the assignment of one sergeant for every ten officers on duty.

[42] We were told that even in those districts where the count was finished within a few days, the officers continued to be assigned to watch the empty ballot boxes and stubs until the count was finished city-wide. Presumably this is done in case there is a court challenge.

two school buildings where the count was taking place, had to be on duty because technically their schools were in use twenty four hours per day, every day, until the process was completed.[43] Assuming the custodian assigned a cleaner to keep the building open around the clock, the worker received his usual $12 per hour plus overtime and night differential.[44] The total cost was hundreds of dollars per day per school.

[43] Schools that were used as polling places were also kept open by custodial staff until 9:00 p.m. on Election Day.

[44] This is the lowest estimate. Obviously the cost would be much higher if the custodian or fireman kept the building open.

FRAUD and MISCONDUCT

As we have demonstrated, the agencies charged with administering and governing the Community School Board Election failed miserably to plan and to coordinate their efforts. In addition, the Board of Elections, an agency that is intentionally comprised of an equal number of Democrats and Republicans monitoring each others' actions, proved to be ill-equipped to serve as a watchdog for a non-partisan election. These factors in effect gave the candidates license to break the laws and rules governing the election. The lack of accountability also enabled everyone involved -- including elections officials, candidates, and their supporters -- to engage in questionable activities without having to explain themselves.

This investigation found widespread disregard for the rules with respect to campaigning, petitioning, residency, advertising, fundraising, and even voting. Ultimately, this contempt for the rules led to outright fraud. Just as disturbing, it enabled politics to infiltrate the school system, and educators were once again demeaned by the undue pressures put on them to participate in political campaigns.

VOTING

In possibly the most egregious fraud perpetrated in an election already riddled with improprieties, unsuspecting Fordham University students from as far away as California and Hawaii were duped into participating in the Community School Board Election. Our investigation reveals that the turnout from the Bronx campus was not a spontaneous

outpouring of civic pride or awareness. Rather, it was the direct result of a fraudulent voting scheme perpetrated by fellow students working part time for District 10.

The "Electoral College"

When all the votes were counted in District 10, Edward McCarthy received 154 "number one" votes culled from absentee ballots. Of those, 117 absentee ballots were "cast" by Fordham University students. With this support, he gained a seat on the Board. The only problem is, most of the students there never knew they were exercising their franchise for McCarthy or for any other candidate.

During the 1992-1993 school year, Nicole Avallone and Jean Marie Gildea, then both Juniors at Fordham University, were hired as temporary workers in the district office of Community School Board 10. Early in 1993, they began taking advantage of their positions as Resident Advisors (commonly known as RAs) in Fordham dormitories to assist in the reelection campaigns of Ed McCarthy and his slate. At the urging and direction of one of their employers in the district, Avallone and Gildea canvassed their dorms, registered their classmates to vote, induced them to request absentee ballots, obtained the ballots intended for the students themselves, and cast them without their classmates' knowledge or consent.

In April, Avallone and Gildea set the scheme in motion. As a first step, they approached students under their supervision in the dorms. They attempted to register any students not yet registered in the Bronx regardless of their ties to District 10. It did not matter where their charges lived when not attending classes because, as matriculating

students temporarily living on campus, they would be entitled to vote in the district encompassing the University.

While one may question why freshmen students from across the country would be interested in voting in a local school board election, the initial registration drive broke no rules and, alone, would not be subject to scrutiny. However, the events that followed make clear that, in fact, the registration drive was nothing more than a necessary prelude to the fraudulent scheme.[45]

The second stage of the plan required the wholesale application for absentee ballots for all the newly minted registered voters. To orchestrate this, Avallone and Gildea obtained an absentee ballot application from the Board of Elections for each voter they registered. They then filled out the forms completely before bringing them to the students for their signatures.[46] Avallone and Gildea indicated on the applications that each student would need an absentee ballot because they would be "home" on May 4, 1993, rather than on the Fordham campus.[47] They did not tell their fellow students, nor did the students realize, that by signing the absentee ballot application filled out in that manner, they were swearing

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[45] In fact, the RAs' deceptive practices began even in the registration phase. Most students were not apprised of the significance of what they were signing. Two students who signed registration forms thought they were signing petitions. One student thought it was some kind of evaluation. One thought it was a credit card application. And still another told Avallone that she was already registered in Staten Island, to which she was told: "It doesn't matter, you can vote in two places."

[46] Only one of the more than twenty students we spoke to recalls filling out any portion of the document filed in his name.

[47] One of the other Resident Advisors who assisted Avallone and Gildea described how Gildea used the Fordham University student directory to fill in student address information, including home addresses, on the registration forms and absentee ballot forms before getting the students to sign. On some of the forms the fact that someone other than the applicant filled out the body is clear by the mistakes that were made. On one, the applicant's last name was misspelled and on another, the hometown was misspelled.

falsely that they would be at home and not on the Fordham campus on Election Day. In fact, all of the newly registered voters contacted by this office were on campus on May 4. After learning that he had unwittingly sworn falsely, one student confronted Avallone. "If anyone asks, just tell them you were home on May 4 and the absentee ballot will count," she told him.

To ensure the scheme's success, Avallone and Gildea "authorized" themselves to pick up the ballots from the Board of Elections on the students' behalf.[48] None of the students we spoke to noticed or understood the significance of Avallone's or Gildea's name appearing on their application forms. None wrote their RA's name there themselves.

Once the RAs got their fellow students to sign off on the absentee ballot applications, filled out by them in advance, everything was in place for the final phase of the scheme. Avallone admitted to investigators that she picked up the ballots from the Bronx Board of Elections and brought them to the District 10 office rather than to the voters. There, she and Gildea filled them all out, placing a "1" next to Ed McCarthy's name and the numbers "2" through "9" next to other candidates' names.

There was but one final hurdle to overcome. Absentee ballots must be placed in sealed envelopes and the voter must sign the outside, swearing that he or she has voted once and only once by way of the enclosed ballot. Thus, before the ballots could be cast, Avallone and Gildea needed to get signatures on the envelopes.

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[48] Section F of the absentee ballot application gives the voter the opportunity to specify the means by which he will obtain the ballot. For example, the voter can indicate that he or she will pick it up from the Board of Elections, can request it be mailed to a specified address, or can designate an agent to retrieve it for him. If a voter chooses the last option, his agent is merely authorized to pick up the ballot, not cast it for the voter.

At first, Avallone showed students the ballots already filled out and sought their signatures on the envelopes. However, she found that the students were less pliant when votes were being cast for them than they were during the earlier registration drive. One student, Lisa Cali, recalled a floor meeting that Avallone called during which she displayed absentee ballots already filled out and sought to get the students' signatures. According to Cali, several students balked at the idea and the RA backed down.[49]

Undeterred, Avallone and Gildea next tried to get the signatures on the envelopes without telling the signers that a ballot was enclosed. They enlisted another RA, Tracy Pertusiello, to accomplish this. Gildea brought ballot envelopes to her and asked her to get the students in her dorm to sign them, Pertusiello told investigators. Gildea never told her that ballots were inside. Eventually, however, a student opened the envelope before signing it and found an absentee ballot inside, already completed. Taken aback, the student asked Pertusiello "who am I voting for?" Not knowing herself, Pertusiello replied: "I don't know; ask Jean."

Finally, it appears that Avallone and Gildea dispensed with the approaches to students altogether. They merely sealed the envelopes with the ballots inside, signed the voter's name on the outside themselves, and returned them to the Board of Electio..s where they were counted. Twenty one of the students we talked to, all of whom had votes cast in their names, stated categorically that they did not vote.

Why would two resident advisors at Fordham University go to such lengths for a candidate for a local community school board? And even if motivated to do so, where would

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[49] Cali, for her part, agreed to vote as a favor to Avallone. However, she was angry that the ballot had already been filled in before it was shown to her.

two political neophytes such as Avallone and Gildea obtain the means and know-how to pull off such a scheme?

When confronted by investigators from this office, Nicole Avallone provided an answer. She said that Jim Sullivan had orchestrated their efforts. Sullivan, the Director of Pupil Personnel in District 10, recruited her and Gildea while they were working in the district office, Avallone said. He instructed the two students to canvass their dorms, register classmates, induce those classmates to request absentee ballots, obtain the absentee ballots themselves, and cast them all for Sullivan's preferred candidates. It was Sullivan who provided the registration forms and applications for absentee ballots and who directed the coeds on exactly how to fill out the ballots, Avallone said.

Avallone's claims are consistent with the explanations she and Gildea gave to students they approached. One student recalled that Avallone and Gildea told him that "they were working for their boss who works for the Board of Education and they had to do it [sign up students] to keep their jobs." Several others recalled being told that the RAs were working for their boss at the Board of Education. Still others who were recruited to help in the "registration process" were told that they could get a job registering students to vote for Avallone and Gildea's boss, whom they said was a candidate in the local school board election.[50]

Avallone's claims are also consistent with Sullivan's involvement in this year's election in District 10. Principal Gerald Friedlander testified that Sullivan, a long time

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[50] One of those recruited, Resident Advisor Peter Fowkes, was paid $100. Gildea told him the money came from her boss. She told another RA, Tracy Pertusiello, that her boss was pushing her to do it and paying her $100 off the books to get student signatures.

political operative in the district and active member of the Ben Franklin Club in Riverdale, was the "political director" for the slate supported by the Council of Supervisors and Administrators (CSA). Ed McCarthy was a member of the slate. Moreover, Sullivan himself was the designated agent to receive the absentee ballots of other voters who cast their votes for Ed McCarthy.[51] Thus, it makes perfect sense that Jim Sullivan would recognize Fordham University as a potential source of votes, enlist the students working in his office, and provide them with the means and know-how to tap into that source.

With the help of Fordham's unsuspecting students, Ed McCarthy was reelected, Jim Sullivan retained his position in the district office, and Nicole Avallone and Jean Marie Gildea received a civics lesson they would never find in their college textbooks.

[51] Sullivan was the designated recipient of absentee ballots for two applicants. One, an employee of Fordham University, wrote that he had work commitments on May 4; the other indicated that he expected to be in the hospital on Election Day.

UNDUE POLITICAL INFLUENCE

In our report entitled *Power, Politics and Patronage: Education in Community School District 12*, released in April 1993, we chronicled the ways in which a local political machine influenced the inner workings of a school district. Through our investigation of the election process we have confirmed that the experience in District 12 was not aberrant nor limited to a poor district in the South Bronx. Indeed, we found that the pressure exerted on Jean Marie Gildea and Nicole Avallone is familiar to school employees across the City. In an election year particularly, political considerations repeatedly take precedence over educational concerns. This year, teachers, administrators and paraprofessionals in several districts faced varying degrees of pressure to actively campaign for candidates running for community school boards. The political chores solicited ranged from small favors like cooking food for a fundraiser to more active involvement such as carrying nominating petitions, contributing to campaign committees, and actually joining political clubs. The pressure exerted varied as well from overt arm-twisting to subtle coercion.

District 21: From Schoolhouse to Clubhouse

The experience of teachers in District 21 during this election demonstrates the way local politics can infiltrate and infect the local school system. An overwhelming number of teachers and support personnel were drawn into a political feud having nothing to do with the functioning of the school district. In the process, many expressed the firm belief that they had no choice but to participate.

In December 1992, Sheldon Plotnick, the incumbent president of the Board, announced his intention to run first for reelection to the School Board and later in the year for the City Council seat held by Sam Horwitz. Plotnick expected that Horwitz, who was retiring, would endorse him as his successor. When that did not occur, a very public feud broke out between Plotnick and Horwitz's ally and chosen successor, Assemblyman Howard Lasher. The first salvo was thrown by Lasher when he denied an application by Plotnick and his school board slate to rent the Community Democratic Club as its headquarters.[52] Plotnick took this as a sign that the Club, as then constituted, was not going to back him in either of his election bids. To counter the Lasher gambit, he would need to delay in order to enlist reinforcements.

To delay the process, Plotnick challenged the legitimacy of the Lasher-Horwitz faction's control of the Club, claiming that they had gained control of the executive board through an illegal vote. To enlist reinforcements, he turned to those who owed their livelihood to him: the supervisory staff of the school district. The supervisors, in turn, pressured their staff in a myriad of subtle and not so subtle ways.

Once Plotnick succeeded in getting the Club to hold a new vote and had mobilized the district staff, he could put his plan into action. At the direction of many District 21 supervisors, large numbers of faculty and staff joined the Club and paid the membership fee. Then, once the new vote was held on April 1, the regular Democratic Club members were overwhelmed and Plotnick gained control. What followed was a fait accompli. The newly

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[52] Lasher, the Club leader, announced that renting the club to Plotnick would violate the spirit, if not the letter of the Serrano Law. In his view, which he imparted to the members, it was mixing school business with politics.

constituted membership voted to endorse the Education Slate in the School Board Election and Sheldon Plotnick for both the School Board and City Council. In the process, teachers were forced to make political contributions and participate in political activity in violation of the City Charter.[53]

Solicitation in the School

The logical point man in Plotnick's strategy to take control of the local Democratic Club was Stuart Possner. Possner, the Principal at PS 100 in the Brighton Beach section of Brooklyn in District 21, was already a member of the Community Democratic Club and a Plotnick supporter. Better yet, he was indebted to Plotnick for years of support despite the principal's past outrageous conduct.[54] With Possner spearheading the operation, the faculty and staff at PS 100 started joining the Club in record numbers in January 1993.

Just as Plotnick knew he could rely on Possner, Possner had his political loyalists whom he enlisted to clarify his wishes to staff members. Myra Abramowitz, the UFT representative, whom witnesses describe as the de facto Assistant Principal; Michele "Micki" Davis, the library teacher; Naomi Fritz, a paraprofessional; Elyse Schneider, the computer teacher; and Randee Bleiberg, who is assigned to the language arts "cluster" position.

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[53] Under City Charter section 2604(b)(11)(c), no city officer or employee may compel, induce or request any subordinate officer or employee to make a political contribution. Furthermore, no city officer or employee may request any subordinate to participate in a political campaign. See Charter Section 2604(b)(9)(b).

[54] Possner was arrested and indicted in 1986 for charges of Grand Larceny, Filing False Documents and Tampering with a Witness for crimes he committed while running a summer camp at PS 188 in Brooklyn. Possner submitted fraudulent time sheets so he could receive a salary check made out to a person who never worked at the camp. He also charged parents tuition, even though it was paid for by government funds. Possner pleaded guilty to a misdemeanor. Despite these school related crimes, the District 21 School Board and Superintendent Donald Weber took no disciplinary action against Possner.

participated to varying degrees in the politicizing of PS 100.[55] Each of these staff members held non-classroom positions which gave them ample time to circulate among the staff and pass the word that the Principal wanted everyone to join and participate in the local democratic club's affairs.

During January, Possner had these individuals enroll the PS 100 staff in the Club and collect the ten dollar political contribution. They accosted teachers in the school office, in the auditorium as their students practiced for a play, and in the classroom during teaching hours in front of the children. In doing so, the recruiters told the faculty that it would be a good idea to attend.[56] If a teacher initially responded "no," she was told to think it over. That teacher was approached again and again -- in the classroom -- until she joined the Club. One teacher who continued to hold out finally learned why she was repeatedly pestered to join the Club. "[Possner] wants me to talk to all you girls about the Club," Micki Davis explained to her. When that teacher learned that her principal was interested in who joined, she agreed to pay the membership fee. Most of the teachers we interviewed said that they paid the ten dollar Club fee because they felt that it was a small price to pay to be left alone. One teacher said that she believed that if she did not pay the fee, "I would have a difficult time getting along in this school." As our investigation progressed, it became clear that her fear was well-founded, and that to be "left alone" by Possner was a coveted, but fleeting status.

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[55] Bleiberg's mother is Marcey Feigenbaum, one of Plotnick's officers at the Club.

[56] Elyse Schneider told one teacher that it was "a good idea to show her face" because, as a Special Education teacher, she works "for a lady named Laurie Plotnick." Laura Plotnick is the head of Special Education in District 21 and the wife of Sheldon Plotnick.

The April 1st Meeting

The majority of the PS 100 staff were signed up as members of the Club in January. Then, a few months later, just before the Club's scheduled vote to determine control of the executive committee, the teachers were again approached. This time, they could not buy peace by making a contribution. They were expected to attend the meeting after hours. On the day of the meeting, a PS 100 student circulated a staff organization sheet with the question "Are You Going?" printed at the top. Each staff member was expected to sign "Yes" or "No" next to her name on the sheet and initial it.[57] Many of the teachers who thought their association with the Club had ended when they paid their monetary dues wrote "No." But, at 3:00 p.m., as those teachers were leaving for the day, Naomi Fritz stood in the school office with the sign-up sheet on a clipboard and gathered the teachers around her. She repeatedly asked: "Are you going? Are you going?" Several teachers remained steadfast in their decision not to attend. According to the teachers, Fritz responded, "he says no is not good enough." Upon hearing that, teacher after teacher took the clipboard from Fritz and changed her "No" to a "Yes."

Many of the teachers who committed to attend the meeting had no idea what it was all about. Some of the teachers who were aware that they were expected to vote that night joked that they would vote against Possner's people to "get back" at him. As they arrived at the meeting, however, they learned that steps had been taken to make sure that Possner's plan did not backfire. To begin with, the "secret ballot" would not be so secret, as the ballot number for each member was placed next to her name in the sign-in book. In addition, the

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[57] The organizational sheet listed all staff members and their respective assignments.

teachers had the palm cards they had been given to remind them why they were there. In one case, Possner went so far as to lean over the shoulder of a teacher to make sure she was following the "suggestions." With the help of Possner and PS 100, Plotnick easily gained control of the Club, the first step toward winning the endorsements he had sought.[58]

Those Who Stayed Behind

Although the vast majority of the faculty and staff at PS 100 went to the April 1st meeting, a few teachers either could not go or simply did not want to go, even when pressured to do so by Possner. The day after the meeting, Possner announced that a movie would be shown in the auditorium and that certain teachers would supervise all the students while the remainder of the faculty would enjoy extra preparation time, a cherished commodity for classroom teachers. It was immediately obvious to the entire staff that those teachers assigned to the movie had not attended the meeting the night before. As witnesses explained, usually when students watch a movie, all classroom teachers receive "prep" time, while paraprofessionals and "cluster" and Special Education teachers supervise the children. But this time, Possner directed particular classroom teachers to report to the auditorium while Micki Davis, Naomi Fritz, Elyse Schneider, Randee Bleiberg and others who had paid their dues enjoyed some free time.

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[58] Teachers reported that Board employees from across the District attended the meetings. Clearly Possner was not the only principal working for Plotnick. He was, however, one of the most successful. Plotnick was reelected to the School Board, but lost in the Democratic primary for City Council.

Though this "punishment" may seem trivial to those outside PS 100, several witnesses told this office that the message was clear and understood throughout the school. The loss of free time and the attached stigma had its intended effect, as virtually every single teacher attended the second meeting on April 26, and the Club voted to grant Plotnick the endorsements he sought.[59]

[59] Possner apparently felt that this "punishment" was a success because he used it again to punish those who defied his wishes and refused to attend a dance held after school on April 2. The following Monday a movie was shown to give teachers preparation time. Again, the teachers who had not attended the dance were assigned to supervise the movie.

December 10, 1992

Assemblyman Howard Lasher, leader of the Community Democratic Club in Brooklyn, refuses Sheldon Plotnick's request to rent the Club as campaign headquarters for the Education Slate. Plotnick announces his plan to run for City Council and decides to overthrow Lasher's control of the Club.

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January, 1993

PS 100 faculty and staff join the Club in record numbers.

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April 1, 1993: At School

Principal Stuart Possner, through select staff members, pressures teachers to attend tonight's Club meeting.

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April 1, 1993: Evening

The teachers attend the meeting, and the Club votes to give Plotnick control.

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April 2, 1993: At School

Teachers who did not attend last night's Club meeting are punished by Principal Stuart Possner.

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April 26, 1993

The teachers arrive at the meeting in even larger numbers, and the Club votes to endorse Plotnick for both the Community School Board and the City Council.

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June, 1993

Possner has City Councilman Horwitz, a Lasher ally, arrested for trying to attend PS 100 kindergarten graduation.

Educators or "Battered Women"

To truly appreciate the coercive nature of the solicitation that occurred in PS 100, Possner's management style and its effect on his staff must be understood. Several teachers described instances where Possner verbally abused students, teachers and parents. Others reported being the victims of his graphic and aggressive sexual harassment.[60] At least one teacher described how Possner physically abused a student. Finally, this spring, the entire staff was witness to Possner's excesses. They stood by helplessly as the Principal had City Councilman Horwitz arrested and removed in handcuffs for attempting to attend kindergarten graduation, all because, as community residents reported, Horwitz chose to support Sheldon Plotnick's long time opponent Howard Lasher.

These reports led investigators to question why teachers would remain without complaining to the outside world. In response, one teacher likened the staff to "battered women" who see no way out of their destructive environment. Instead, teachers remain and do whatever they can to stay out of Possner's way and avoid being summoned to his office at all costs. Repeatedly, teachers expressed the belief that Possner was too "well connected" to be disciplined even if their allegations came to light. At the same time, those who have cooperated have expressed great trepidation about the repercussions they would suffer if their participation in the investigation became known. Both the belief in Possner's invincibility and the fear of retribution are understandable under the circumstances. In 1986, when Possner was convicted of a crime directly related to his duties as principal, the local board

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[60] Several teachers who agreed to cooperate only after being assured that they would not be identified in this report testified under oath that Possner made sexually harassing comments and demands in one-on-one situations either in his office or their classrooms. Those who gave such testimony did so with a great deal of specificity. However, to repeat their descriptions in any detail here would be tantamount to disclosing their identities.

took no disciplinary action. Since that time, when teachers at PS 100 have complained about the Principal's abusive behavior to their union representative, Myra Abramowitz, she has refused to support their complaints.[61] At the same time, the slightest hint of disloyalty is treated harshly. Several of Possner's closest aides learned first hand during this investigation how their fortunes could change if they did not give their first allegiance to their Principal. After Micki Davis, Elyse Schneider, and Naomi Fritz testified under oath before this office, Possner immediately summoned them to find out what questions they were asked and what responses they gave. When they refused to answer his questions, they each found that on the next staff organizational chart they had new, more onerous classroom assignments.[62]

We hasten to acknowledge that everyone, including teachers and other school personnel, has the right to voluntarily take part in the election of Community School Board members. On the other hand, no teacher or school board employee should be forced to participate. The request by a supervisor of a subordinate to contribute time or money to a political cause is inherently coercive and thus prohibited by law. Where, as here, that "request" is actually a demand, its impact on the educational system is even more corrosive and must not be tolerated.

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[61] Teachers told us that time and time again, she has suggested that Possner was "only joking" and otherwise discouraged them from pursuing formal action.

[62] As explained earlier in this section, Davis, Schneider and Fritz had to that point had few if any classroom assignments. This change was noted by several witnesses and cited as another example of the ways Possner could punish those who defy him. As a result, Schneider has transferred to another school in the District.

District 9

In District 9, a district with a history of corruption and influence peddling, employees have long complained that they are routinely pressured into making contributions of time and money. Given that atmosphere, the strong-arm tactics described in District 21 were unnecessary. District 9 employees knew from experience what was expected of them. Our investigation revealed that Carmelo Saez, a long time power both on the Board and behind the scenes, enlisted well placed employees in the district to coordinate his campaign and raise money for him and his slate of candidates.[53] And when Carmelo Saez or his representatives came calling, District 9 employees gave of their time and money in large numbers.

Saez's primary vehicle for raising money was through an organization called the "Comite Pro Representacion Hispana." Witnesses described how he used district employees to organize a fundraising event on behalf of the "Comite" and solicited contributions in support of it. The event, billed as a "Fundraiser/Dinner/Dance," was held at the restaurant "Chez Sensual" on April 23. For a donation of $25 per person, patrons enjoyed two bands and a D.J., a hot buffet and drinks. According to a number of witnesses, at any given time several hundred people were in attendance, including "principals of practically every school" in the District.[54]

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[53] Carmelo Saez is a former Board member in District 9 who was removed for improper use of school facilities in May 1992. He was reelected in May 1993, and the new Board selected him as its President.

[54] The event was run much like the A-Team fundraiser we described in our April 1993 report on corruption in District 12. Saez, like District 12's Kenneth Drummond, made use of his power base in the local school district to raise money. And like the A-Team fundraiser in 1991, the Comite's party raises questions about how much money was raised and where that money went.

Exactly how much money Saez or the "Comite" pocketed from the event remains a mystery. The "Comite" did not file a Financial Disclosure Form with the Board of Elections as required by law, thus no information about the receipts of the fundraiser is available. Instead, Saez filed a form indicating that money was raised on his behalf by an organization called "Friends of Carmelo Saez," but claimed that the group need not itemize since it raised less than $1000.[65] Those who attended Chez Sensual on April 23, expected that at least Saez, if not all the Comite candidates, would benefit from the event. Thus, unless those in attendance were deceived as to the recipient or were wildly inaccurate in their crowd estimates, the mystery with respect to the proceeds is one that is being perpetrated in violation of all disclosure rules.[66] Indeed, the lack of documentation makes it difficult to determine whether any of the money was spent on the campaign or if it merely lined Saez's pocket.[67] A conservative estimate of the fundraiser attendance is two hundred fifty people -- many of whom paid cash at the door. The resulting amount raised would be $6,250. Nevertheless, only $345 in cash and $2,000 in checks were deposited in the "Comite" bank account.[68]

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[65] Pursuant to Election Law Section 14-124(4), candidates who raise less than $1,000 must file but need not itemize. If they raise more than $1,000, School Board candidates must itemize every receipt no matter how small. See Education Law section 2590-c(6)(b). Notably, although Saez claimed money raised on his behalf was done by "Friends of Carmelo Saez," he was one of two individuals authorized to withdraw money from the "Comite" account.

[66] Based on testimony or other information provided, we can account for over fifty purchased tickets representing $1,250. At least one third of those tickets were sold to teachers in District 9.

[67] According to the records of Chemical Bank, the "Comite" account was opened on April 27, 1993, four days after the fundraiser, by Saez and his sister-in-law Carmen Abarca, a District 9 employee. On that date, $345 in cash and $1,845 in checks were deposited. An additional $175 in checks was deposited on May 4th; the account was closed on June 11, 1993.

[68] While obviously there were some costs involved in throwing the fundraiser, the food was donated and the bar was cash only after 9:00 p.m.

Whatever the actual financial reward Saez reaped from the evening at Chez Sensual, there is no question that it was achieved with the aid of numerous district employees. Frank Rodriguez, the Assistant Director of Bi-Lingual Programs, Hilda Gutierrez, the Principal at PS 35, Nancy Vasquez, a teacher at CS 90 and the wife of successful candidate Benjamin Ramos, and Angel Crespo, a teacher at IS 147, were enlisted to organize the event or sell tickets to it.[69]

Saez enlisted Frank Rodriguez to find a suitable location and solicit contributions. Rodriguez chose Chez Sensual and met Saez there on a Tuesday in March. Although he arranged and attended the meeting, he denies participating in the exchange between Saez and the owner. In his words, he was there "just to be there."

Rodriguez did more than handle logistics. At Saez's behest, he solicited his associates' attendance. He admitted that Saez gave him twenty tickets to the fundraiser to sell. Of those twenty, Rodriguez distributed thirteen to members of his own unit, including the Director and other staff members.[70] Aside from the Director, those receiving tickets were all subordinate to Rodriguez and thus susceptible to improper coercion.[71]

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[69] Like Drummond in District 12, Saez cut down on costs and maximized his profit by using his allies throughout the District to carry out virtually every task needed to hold the fundraiser.

[70] According to Rodriguez, he sold the seven other tickets to friends outside the district and bought three more himself on the night of the event.

[71] A clear illustration of the potential for coercion is described in the section immediately preceding this one. Moreover, the City Charter, which applies to Board of Education employees, recognizes the dangers of coercion by supervisors and therefore forbids any public servant to "directly or indirectly compel, induce or request any subordinate to pay any political assessment, subscription or contribution." City Charter Chap. 68, Sec. 2604 (11) (c) (emphasis added).

Hilda Gutierrez, the Principal of PS 35, was another cog in the Saez machine.[72] She helped arrange for the food that was to be served at the fundraiser and bought numerous tickets in addition to attending on her own. Though much of her testimony before this office was internally inconsistent or incredible on its face, it is clear that she was substantially involved in the fundraiser.[73]

At Carmelo Saez's direction, Angel Crespo, a teacher in District 9, solicited Gutierrez' assistance with the food provisions. As she ultimately admitted, Crespo called her at school to enlist her help. Although, according to her, she preferred to talk at home, she discussed with Crespo how much and what type of food would be needed. In fact, Gutierrez offered to "set up a plate or two." Thereafter, she enlisted parents to cook some of the dishes and arranged for Crespo to pick up the food outside the school.

Gutierrez claimed that she was unaware of the true nature of the Chez Sensual event, maintaining that she had attended a "party," rather than a fundraiser. This claim is incredible. First, and most obviously, the face of the ticket she admits to purchasing read: "Fundraiser/Dinner/Dance." Even if that description went unnoticed, Gutierrez's actions belie her claim of ignorance. Though she made conflicting statements about where she got her tickets and what was said to her when she got them, she was consistent about the fact that she agreed to purchase seven tickets at $25 each. She claimed that besides herself, she

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[72] Prior to being named principal of PS 35, Ms. Gutierrez was the Deputy Superintendent in District 9.

[73] For instance, when initially asked by investigators who sold her the ticket to the fundraiser she stated that she got it from Frank Rodriguez. Later, in sworn testimony, she said that Carmel Saez called her at home and asked her if she was interested in "Hispanic unity." According to her, she then told Saez to send her seven tickets. When asked why she originally said Rodriguez sold her the ticket, she replied, "I don't know." In addition, under oath, she first denied having anything to do with the food at the fundraiser. Later in her testimony she confirmed that she had helped Angel Crespo coordinate that activity.

bought the tickets so that her husband, her daughter, and certain parents who had been helpful at her school could attend. However, her explanation makes little sense. No monetary commitment was necessary until party-goers actually arrived at the door on the night of the event. Yet, despite the fact that of her intended beneficiaries she alone attended, Gutierrez paid $175 that night. If her sole motivation was paying to entertain her friends and family at a "party," she would have only paid for one ticket when they found other diversions.

The fundraising effort was not limited to the efforts of Rodriguez, Gutierrez and Crespo. Nancy Vasquez, a teacher at CS 90 and the wife of Saez slate-member Benjamin Ramos, actively solicited contributions from numerous fellow employees at her school.[74] CS 90 Principal Richard Wallin was aware of Vasquez's activity and had received the Chancellor's memorandum forbidding campaigning in the schools, but he took no steps to stop it. Indeed, Wallin ultimately attended the fundraiser using a ticket that Vasquez had sold to CS 90 science teacher Eugene Mendelsohn.

As Election Day neared, Saez enlisted still other employees to bring his campaign into the District schools. He personally delivered a cardboard box filled with flyers to the principal's office at PS 109. From there, Principal Angelo Sanchez turned over the task of distributing flyers to a paraprofessional in the school, Miguelina Morales. Then, come Election Day, Ms. Morales and Mrs. Fuentes, a teacher at PS 109, handed out flyers in front

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[74] Vasquez testified that she sold 20 tickets that were given to her by Saez. Approximately 12 of those were sold to Board of Education employees, and she bought one herself. Her customers paid in cash. According to her, she collected a total of $500 which she turned over to Saez. Although many others also collected cash contributions, a total of only $325 in cash was deposited in the "Comite" account.

of the school on school time. At the same time, Principal Sanchez stood on the school steps imploring voters to vote for Saez.

Seemingly determined to use any available school employees to further his political campaign, Saez sent unsolicited packages of tickets to other principals who did not "volunteer" their time. Certain District 9 principals whose names are known to this office, but who asked for anonymity out of fear of retribution, reported receiving packages addressed: "Attention Principal" at their office. The packages contained tickets to the fundraiser at Chez Sensual. Those receiving the unsolicited tickets knew from experience that they were expected to sell their quota. Sadly, District 9 educators have learned that they must pay their political dues in order to ensure their professional success.

PETITION REVIEW PROCESS

We have demonstrated the negative repercussions that occur when undue political influence infiltrates the local school district. Brazen political insiders are afforded an edge when they use the manpower and resources of the district they control to further their campaigns. In other areas of the election process, too, we have found that the playing field is not level and that those without political connections will face an uphill fight. Petition review is one such process that insiders can manipulate to their own advantage.

In order to secure a place on the ballot in one of the thirty two local contests, a candidate needed to get two hundred registered voters to sign a nominating petition.[75] He or she could obtain the signatures personally or have a supporter, registered in the district, obtain them in the candidate's name. Either way, obtaining the signatures was only the beginning of a torturous, time consuming, and often secretive process. In order to survive, each candidate had to beat back all challenges to the validity of his signatures and at the same time do his or her own checking to ensure that others played by the same rules. This process, governed by state statute and administered by the Board of Elections, was played out in an arena replete with arcane rules and secrecy that at the very least appeared to favor political insiders.

The statutory scheme for the review of candidates' petitions does not confer on the Board of Elections the power to independently investigate each candidate's petitions to verify

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[75] The signers had to be registered in the district where the candidate was running or have a child attending school there.

that they are valid and sufficient."[76] Rather, it assumes that the competing interests of opposing candidates will lead to a form of self-policing. Each candidate is given the opportunity to review and challenge the validity of his opponent's fil .g. Only if a candidate's petition is "challenged" will the Board of Elections review it. If there is no challenge there is no review. If an objection is made to a candidate's petition, the clerks of the borough offices of the Board of Elections conduct a preliminary review and send a report on their findings to the elections commissioners. The clerks make specific factual findings and tabulate each candidate's valid signatures. Then, the Board of Elections holds hearings on the challenged petitions and makes final determinations as to who will remain on the ballot.

The manner in which those decisions were made in this year's Community School Board Election raises serious questions about the integrity of the process. In several cases, the commissioners disregarded the factual findings and tabulations made by their own borough clerks. Moreover, they often made their decisions behind closed doors, in secret "executive sessions," and announced them without comment or explanation. The appearance of impropriety was aggravated by the fact that, in one case, a commissioner passed judgment on the petitions of incumbents who were overseeing programs in which he had a financial stake, without disclosing the connection or recusing himself.

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[76] In fact, Election Law Section 6-154(1) states clearly that "any petition filed with the officer or Board charged with receiving it shall be presumptively valid if it is in the proper form and appears to bear the requisite number of signatures."

District 12: The Board of Elections' New Math

The review of candidate petitions in District 12 raised serious questions of conflict of interest. In closed door meetings, the Board of Elections commissioners, including one who was at the time doing business in District 12, overruled their own clerks and ruled eligible candidates whose petitions were clearly insufficient. To do so, in one case they had to make 174 equal 200 and in another 155 became 200.

In order to understand the Board of Elections "new math," investigators from this office tried to reconstruct just what occurred in the review of the District 12 petitions. Unfortunately, many of the Board's practices and procedures impeded that reconstruction. First, the Board did not record in any manner the hearings at which objectors and candidates were afforded the opportunity to plead their cases to the presiding commissioners. Second, many of the commissioners' decisions were made in private, unrecorded "executive sessions." Third, no formal record of the vote of commissioners was kept. Finally, when the Borough Clerk calculations were overruled or disregarded, the commissioners were not required to give an oral or written explanation. Thus, investigators were left with the memory of Board of Elections commissioners and employees as well as witnesses who had attended their hearings. [77]

What is clear is that in their initial review, the Bronx clerks found that two incumbent candidates running for reelection in District 12, Randy Glenn and Ed Cain, had less than two

[77] Board of Elections counsel, Steven Denkberg and John LoPresto, claim that in the wake of our investigation, the Board's procedures have changed. They claim that hearings are now recorded.

hundred valid signatures.[78] Yet, both ended up on the ballot on May 4. How that occurred has yet to be satisfactorily explained.

Sandra Parness, a clerk in the Bronx borough office of the Board of Elections, determined that Randy Glenn had 174 valid signatures and Ed Cain had 155. She recorded those figures on the "Clerks' Report," the official document which is forwarded to the commissioners of the Board of Elections for ratification.[79] According to Kay Amer, the Chief Clerk in the Bronx, after her clerks sent their report "downtown," they had no further involvement in the process until they received copies of the same official documents back with a succinct notation on each. In the space where the final decision of the Board is indicated, someone had put a check mark next to the word "in." This notation appeared without any further explanation in writing and without any change in the clerk's calculations.

Based on scant recollections and limited documentation, we tried to figure out exactly what occurred at the Board of Elections' hearings. On March 4, 1993, the commissioners met to consider the District 12 petitions along with many others. According to witnesses, each matter was called individually. In most cases, objectors and candidates were given the opportunity to address the commissioners in a public forum. However, when Cain's and Glenn's cases were announced, Commissioner Vincent Velella immediately announced "second call" and the commissioners retired to an "executive session." When the commissioners returned, Velella announced that Cain and Glenn would be on the ballot. No

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[78] Following the issuance of our April, 1992 report on corruption in District 12, then Chancellor Fernandez removed the entire Board and replaced them with his trustees. Thus, by May 4, Glenn and Cain were no longer incumbents. By May 15, they had lost their bids for reelection.

[79] See Clerks' reports at the end of this section.

evidence was accepted or discussed in public and no explanation was given for the discrepancies between the Bronx clerk's tabulations and the commissioners' determination.[80] Indeed, when Commissioners Velella and Mejias were interviewed by this office, neither could remember anything about the proceedings involving Cain and Glenn. Even after being shown the Clerk's Reports they could provide no explanation for how the two candidates were allowed on the ballot. Even if there was a logical and legitimate explanation for the commissioners' decision, the manner in which it was made and announced cast a shadow of suspicion in the participants' minds.

Behind the Scenes: District Leader Fred Brown

The shadow of suspicion created by the secretive processes and the Commissioners' failed memories lengthened when this office obtained secretly recorded conversations suggesting that political influences were exerted and unsavory back-room deals were cut. In conversations with candidates Edward Cain and Randy Glenn, Fred Brown, a Republican District Leader in the Bronx, and his associates described exactly how Brown used his influence with Elections Commissioner Vincent Velella to ensure Cain's and Glenn's places on the ballot.

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[80] Two other candidates, Lydia Velez, an incumbent, and Louis Maldonado, were present and testified to the manner in which the Cain and Glenn petitions were handled. Mildred Bonilla, a community activist in District 8, and Jerome Koenig, an election law specialist working for the State Assembly's Committee on Election Law, were also present and corroborated the candidates' general descriptions of the events of March 4, including the Board's use of "executive sessions" and its summary announcements of its decisions. Alice Sachs, then a commissioner from New York County, could not recall nor explain how Cain's and Glenn's petitions were approved. However, she did indicate that, in most cases, the Board accepted the findings contained in the Clerks' Report. According to her, this is particularly true when no one appears to challenge the clerk's findings.

First, in a recorded conversation on the very day that the petitions were reviewed, Fred Brown's associate Earl Hayde told Ed Cain:

> ...Y'all was completely off. It was no ifs ands or buts about it. You were off because of the mistakes...because of the mistakes, Mr. B had to go and get that Senator and they went in a room... Senator wanted to know was y'all important enough. Otherwise they would walk away from it... This is how you got back on....it cost a helluva big chip... I mean, to get y'all both back on there, alright, and this is through the Senator Guy Velella and people down there.

Then, four days later, on March 8, Fred Brown told Randy Glenn:

> Cain was down to 155 signatures and you were down to 174. I had placed a call in down to 32 Broadway [Board of Elections]...saying we want a Republican priority on you and Cain... A call was placed back to Guy Velella, who's the Bronx County Republican Chairperson, he placed a call back down to his father Vince Velella, who is one of the commissioners there... You were yesterday's history... Then Vince went on to make a motion for a recess and then to make a motion to go into exec[utive] session, and really deal behind the scenes with the Commissioners.

Consistent with Brown and Hayde's statements, Commissioner Velella was the one who announced the "second call" of Cain and Glenn's petition challenges, and the one who, without explanation, announced the Board's decision to overrule its own local clerks. We are unable to say with certainty that Velella's actions were influenced by the approaches Fred Brown made on behalf of Cain and Glenn.[81] Nor have we corroborated the fact that the approach even took place, merely that Brown and Hayde made contemporaneous statements

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[81] In an interview before this office, Commissioner Velella denied being contacted by Brown or his representatives. Beyond that, the Commissioner stated that he could not recall any of the deliberations relating to Cain or Glenn's petitions and could offer no explanation for the reversal of the Clerk's Reports.

indicating that a deal had been cut. However, under the circumstances, and without documentation justifying the reversal of the Clerks' Report or other satisfactory explanation from the Board, the integrity of the entire process is suspect.[82]

District 8: An "Open and Shut" Case is Reopened

The secrecy and creative accounting that characterized the review of District 12 petitions was repeated during the review of District 8 petitions. Two candidates in that district, Steven Eskow and Ciro Guerra, were allowed to remain on the ballot despite a Bronx clerk's determination that they had only 165 and 157 valid signatures respectively.[83] However, in the cases of Guerra and Eskow, the Board of Elections had more difficulty balancing their books.

In fact, when their cases were first called by the Board of Elections on March 4, both candidates were ruled "out." However, their ouster was short-lived. The Guerra matter was "second called" almost immediately and, without comment or explanation, the initial determination was reversed. Eskow had to wait longer for his reinstatement. He remained off the ballot until March 9. On that date, at the Board of Elections' regular Tuesday meeting, the commissioners inexplicably recalled Eskow's case, reexamined his petitions, and ruled him back on the ballot -- all without notice to his challenger, Mildred Bonilla.[84]

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[82] Fred Brown refused to answer our questions about his activities in connection with the 1993 Community School Board Election.

[83] Actually, the Bronx Board of Elections came up with two different calculations and two different Clerks' Reports for candidate Steven Eskow. In one, he was found to have 165 valid signatures and in another the clerks validated only 138. Both reports were forwarded to the commissioners.

[84] Bonilla contested some of Eskow's nominating signatures because the subscribing witness who vouched for them was not a registered voter.

Not surprisingly, the process bewildered newcomers to school politics such as Bonilla. She was stymied despite the fact that she had followed all the rules, including filing her objections in a timely fashion and appearing at the proper time and place to argue her case. According to Bonilla, when the Guerra and Eskow matters were called on March 4, she was the only one to appear. The Clerks' Reports indicating that Guerra and Eskow did not have sufficient signatures were presented to the commissioners and, without argument, without a second call, and without any indication that their decision was revocable, they ruled the two candidates out.[85] Understandably, Bonilla left the hearing room assuming that the issue was closed. When she later learned that the commissioners had revisited both cases in her absence and overturned their initial decision, she was shocked. No one from the Board of Elections had informed her that the cases would be, or even could be, "second called," and no one gave her an opportunity to argue her case. To make matters worse, the explanation she received from the Bronx Board of Elections was, quite simply, wrong.

Kay Amer, the Bronx Clerk, claimed to have no direct knowledge of how her office had been overruled. All she could do was refer Bonilla to the returned Clerks' Reports. Each one was returned with notations purporting to reflect the commissioners' actions. In the Guerra matter, two separate annotated reports were returned. The first merely noted a "second call." The portions of the report that normally list the parties present and the Board's decision were left blank. The second report purportedly reflected the final decision.

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[85] The Clerks' Report on Mildred Bonilla's objections to Steven Eskow's petition indicated that the candidate had 138 valid signatures. Likewise, the Clerks' Report on Bonilla's challenge to Ciro Guerra's petitions indicated that the candidate had 157 signatures.

In the place left for explanations, someone wrote: "sub witness was registered...Cand. gets back 76 signs...157+76=233," and next to the word "decision," the word "out" was crossed out and the word "in" was checked. Documentation in the Eskow matter is equally scant. The returned Clerks' Report indicates that the Board heard the matter on March 4, and decided that the candidate was "out." However, a notation appearing in the explanation section contradicts the decision. Someone wrote: "Candidate is registered and SW is reg...In...3/9/93." Translation: the candidate and the subscribing witnesses are registered voters. The candidate is in.

Bonilla knew from her own review of Board of Elections files that the subscribing witnesses to whom she objected were not in fact registered to vote at the time they collected signatures and she also knew that the Board of Elections' own computers reflected that fact. Thus, she concluded that the explanation appearing on the face of the reports could be nothing more than a false pretext.

Incredibly, when Bonilla complained publicly, the Board all but conceded that she was right, but stuck to their position anyway. Daniel DeFrancesco, the Executive Director, writing on behalf of the commissioners, explained:

> (2) Candidates ruled off on First Call were frequently allowed a second call to present evidence and arguments in support of their petition for ballot status;
>
> (3) In the case in question, a second call was allowed and argument presented that the subscribing witnesses were registered as parent voters;
>
> (4) Acting on information and belief, the Commissioners allowed the candidates in question to proceed forward.

(5) Notwithstanding the fact that the information and belief that the Commissioners acted upon appears to be incorrect, there does not now appear to be any way that the Board can administratively remove the names of the candidates in question from the ballot. (Emphasis added)[86]

The Board's admission of error was small consolation for someone like Bonilla who took the time and effort to be involved in this process only to be arbitrarily shut out in the end. Moreover, it only served to reinforce many parents' views that the system is closed to all but political insiders. The appearance of impropriety is heightened by the Commissioners' total lack of recall with respect to who provided the erroneous information.[87]

Commissioner Mejias: A Man Wearing Two Hats

While Fred Brown was attempting to influence Commissioner Velella, another commissioner who deliberated behind closed doors on the District 12 and 8 petitions had, and continues to have, financial interests in both districts. Paul Mejias, the other commissioner from the Bronx, is the Executive Director of the Community Housing and Economic Development and Management Corporation (CHEDMC), a community-based organization (CBO) that provides services to school children in the Bronx. Since 1991, CHEDMC has contracted with the United Way to provide dropout prevention programs in specific schools in Districts 8 and 12. However, it is, in effect, sponsored by the individual districts and can continue to function only with the local boards' continued endorsement and support.

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[86] See Letter from Daniel DeFrancesco to Mildred Bonilla, dated April 14, 1993.

[87] In interviews with this office, Commissioners Sachs, Mejias, and Velella could not recall who provided the information that led to their decision.

In the spring of 1991, Mejias began pitching his projects to District 12. Though he sought no funds from the Community School Boards directly, he no doubt recognized that without district support, it would be difficult to receive outside funding and would be impossible to use district facilities. "If they were going to use district facilities they would need its blessing," Superintendent Robert Henry explained. Moreover, in the application to the United Way, the agency administering the program, CHEDMC submitted written approvals of the "workplans and budget" from representatives of the District and the individual schools in which the programs would operate.[88]

Early in 1991, when Henry was Deputy Superintendent, he attended a meeting at which Mejias and an associate presented their proposals to representatives of several Bronx districts. Henry was not impressed. He came away from the meeting believing that the program would do little to benefit his district. He told this to then Superintendent Alfredo Mathew. However, it was clear that Mathew and the Board wanted Mejias' organization to operate in the district. In a document dated April 19, 1991, which was submitted to the United Way, Alfredo Mathew formally approved the CHEDMC workplan and budget for his district. Then, the Board, including Randy Glenn, formally passed a resolution accepting the program to be run by Mejias' organization.[89] As a result, CHEDMC received $90,000 for

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[88] As former Superintendent Alfredo Mathew, now deceased, once explained to a board member in District 12, "he [Mejias] doesn't work for us, he was elected by the United Way but we had to agree to take his services."

[89] A resolution accepting the Mejias program was passed at the October 22, 1991 Public Meeting. Edward Cain was not present for the vote.

the 1991-92 school year for programs run in two schools in District 12.[90] Since that time, its contract with the United Way has been renewed annually at the same level of funding.

Commissioner Mejias' connection to District 8 is just as substantial. Since 1991, CHEDMC has, with United Way funding and District 8 approval, run dropout prevention programs in two schools. The superintendent, Max Messer, approved and supported the organization's original application in 1991 and again last year.[91] With the district's approval then, CHEDMC was paid $112,500 for the 1991-1992 school year.[92]

For the 1991-1992 school year alone, CHEDMC received $202,500 from the United Way to operate in four schools in Districts 8 and 12.[93] During that same time, Mejias, as Executive Director, received $67,750.[94]

This investigation has not established that Mejias' votes on the petition challenges in Districts 8 and 12 were either a quid pro quo for continued support for his programs or a payback for past support.[95] Nevertheless, the potential that his judgement would be influenced by his own pecuniary interest is obvious. Even if his judgement was pristine, the appearances were not. When secretive decision-making such as we have described here

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[90] See United Way-New York City Board of Education CAPS Final Report for 1991-1992, Section IV.

[91] In a document filed with the United Way on April 30, 1991, Messer and other representatives of the district indicated that "we have reviewed the information contained herein and support this application."

[92] See United Way-New York City Board of Education CAPS Final Report, Section IV.

[93] Ibid, Section IV.

[94] This figure is based on information disclosed by CHEDMC in IRS Form 990 for 1991.

[95] In testimony before this office, Commissioner Mejias stated that he had no recollection of the deliberations regarding the Cain, Glenn, Eskow or Guerra petitions. However, he denied being influenced by the business interests he had in their districts.

involves one who has such close ties to the participants, the specter of impropriety is inevitable.

Candidate Herbert Suss: Victim of Selective Enforcement?

Board of Elections officials have attempted to justify the outcomes in the Cain, Glenn, Eskow, and Guerra matters by expressing a concern that citizen participation be maximized. Indeed, in Daniel DeFrancesco's letter to Mildred Bonilla, he emphasized that "the overriding concern of the Board [in considering the Eskow and Guerra petitions] was to give the candidates the maximum leeway allowed by law so as to maximize citizen participation." Commissioner Mejias suggested the same thing when he privately told candidate Louis Maldonado that, challenges notwithstanding, everyone would be allowed to run. Finally, former Commissioner Alice Sachs echoed this lenient bent when she said that if a candidate was within ten or so signatures of the 200 name threshold, commissioners would often accept their petitions as valid. Yet, the experience of at least one candidate, Herbert Suss, suggests that just how much leeway a candidate received depended on who were his or her friends.

Suss, long active in parent associations in District 10 but never before a candidate, got fed up this year with the way his local Community School Board was administering its schools. So he decided to run for the school board himself. To acquaint himself with the process, Suss read all the literature available to prospective candidates, including material

distributed by the Board of Elections, the Board of Education and the Public Education Association (PEA). He was determined to play by the rules.[96]

Without a campaign organization to do much of his legwork, Suss went door to door collecting his own nominating signatures. In so doing, he unwittingly sowed the seeds of his own destruction. On January 5, 1993, Suss not only witnessed signatures on his own petitions, he signed a petition to nominate a friend, Isobel Rooney. In the weeks that followed, he continued to collect and witness signatures on his own petitions. Finally, after amassing 477 signatures, more than twice the 200 needed to get on the ballot, Suss filed with the Board of Elections.

Unfortunately for Suss, all the handbooks and instruction books he consulted failed to mention one rule -- once an individual signs a nominating petition for one candidate, he or she can no longer validly serve as another candidate's "subscribing witness."[97] Thus, once Suss signed to nominate his friend, Isobel Rooney, any signatures he collected and witnessed in support of his own candidacy were invalid.

Ironically, the challenge to Suss' petitions on this point was heard on March 4, 1993, the same day that the commissioners considered the Cain, Glenn, Eskow and Guerra matters. Both sides argued their case and then the Board retired to an executive session. However,

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[96] The PEA, with input from the Board of Elections, including Commissioner Alice Sachs, prepared and distributed handbooks intended to "walk" the candidate through the process from petitioning to voting to counting to financial disclosure. When in doubt, Suss called the Board of Education and Board of Elections for clarifications.

[97] Any signatures obtained by a subscribing witness after he or she signs a petition for another will be invalid. Moreover, courts have even invalidated signatures obtained on the same day the subscribing witness has signed to nominate another candidate without requiring proof of which came first. See Lavelle v. Gonzalez, 74 AD2d 958, rev'd, 93 AD2d 896, aff'd, 59 NY2d 670 (1983).

unlike those of the other candidates, Suss' petitions did not survive the challenge. The law was clear and he was out.

The provision of the law that went undisclosed to candidates and ultimately eliminated Suss would seem to be just the sort of arcane rule that the Board of Elections would bend in the interests of "maximum citizen participation." However, the commissioners demurred this time, citing a lack of discretion. By secretly, and without explanation, approving the candidacies of Cain, Glenn and Guerra on the same day that it removed Suss from contention, the Board sent a clear signal to the electorate.[98] Commissioner Mejias may tell candidates that the Board will let everyone run and will ignore technical violations, and Commissioner Sachs may be willing to deviate from the 200 signature threshold, but such accommodations will be made only to those with clout and connections and all others will be held to the letter of the law.

[98] The Board of Elections also validated Eskow's petitions. However, that did not occur until March 9.

PETITIONS

Our investigation found that candidates violate the petition rules for a variety of reasons. Some incumbents use school district employees to collect signatures for them because they know they can easily exploit the people whose job stability depends on them. Other candidates have people falsely sign as subscribing witnesses because the person who actually collected the signatures -- for some reason -- did not want to sign his or her name as the subscribing witness. Others disregard the rules merely for convenience.

In a variety of ways, candidates defeated the purpose of the petition filing requirement, which is meant to ensure that only serious candidates with a demonstrated threshold of support get on the ballot. The following section of this report describes several different petition fraud schemes that candidates executed this year.

Sister Kelliher

Sister Elizabeth Kelliher, a Community School Board member in District 1 for thirteen years, decided to run for reelection in 1993. In order to secure the requisite two hundred nominating signatures, Kelliher repeatedly asked others to break the law and even did so herself.

Kelliher used one group of volunteers to collect nominating signatures, then asked others who were not present when the signatures were obtained to falsely swear that they had witnessed them. For example, Kelliher brought several signed petition pages to Cornelius Noonan, a neighbor, and asked him to sign as the subscribing witness. Noonan signed where

Sister Kelliher asked him to, even though he did not witness the signatures and did not have "the slightest idea" who did.

In another case, Sister Kelliher brought an unsigned petition page to Brother Carl Malacalza. A few days later, she retrieved it -- now complete with ten signatures -- and added it to a stack of other petition sheets. Kelliher then had a friends of hers, William Viera, sign them all as the subscribing witness, despite the fact that he did not see Brother Malacalza, or many others, sign the pages. According to Viera, he did collect some of the signatures, but he could not remember the date he had done so. So at Sister Kelliher's direction, he filled in false dates. "She told you to just pick a date and fill it in?" Viera was asked for clarification. "Yes, for the most part," he answered.

On some pages, Kelliher herself signed as the subscribing witness, falsely swearing that she observed as each signer put pen to paper. For example, Mary Moloney, a District 1 resident, told us that when she signed to nominate Sister Kelliher, the candidate was not present. Nor was the Sister present when four others added their nominating signatures to that page. Yet, Sister Kelliher signed as the subscribing witness.

The requirement that a witness vouch for the signatures appearing on each petition page is more than a mere formality. It is meant as a deterrent against wholesale forgery.[99] Where, as here, that requirement is forsaken, fraud is inevitable. In fact, we found several forgeries in our limited survey of Sister Kelliher's filings. For example, Cornelius Noonan signed page fifteen as the subscribing witness, even though he did not actually watch anyone

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[99] Board of Elections Commissioner Mejias agreed that the subscribing witness requirement is a safeguard against fraud. In his words, "It's to verify that they took the signature, that they didn't go into a back room and create it..."

sign the page. Not surprisingly, our investigation revealed that several of the nominating signatures on that page are not authentic. The signature and address of Michael Palanza appear in one of the slots for nominating signatures on page fifteen. Palanza's nominating signature also appears on page three, but the two signatures do not match. Palanza told investigators that he signed page three, but that he did not sign page fifteen. Palanza's son, who lives at the same address and who is also named Michael, confirmed that the nominating signature on page fifteen is not his either.

Page fifteen also contains the nominating signature and address of Katherine Hrebluk. But Ms. Hrebluk told investigators that she did not sign the petition. Indeed, she cannot sign her name in English. Hrebluk added that she has never heard of Sister Elizabeth Kelliher, or of Cornelius Noonan, who purportedly watched as Hrebluk signed the petition page.

In another instance, Pedro Garcia, whose name and address appear on page nineteen of the Sister's petition, told investigators that he never signed a petition to nominate Sister Kelliher to the school board. When investigators showed Garcia page nineteen, he confirmed that although he lives at the address indicated, the signature next to the address is definitely not his. Other individuals who did sign the page said that a man witnessed their signatures. However, Sister Kelliher signed as the subscribing witness.

Through a variety of scenarios, Sister Kelliher had false witnesses subscribe to at least one third of the petition pages she filed.[100] Christine Bookin, for one, collected no more than six pages of nominating signatures, but signed as the witness on approximately eighteen pages. People who signed as false witnesses testified that they did so because Sister

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[100] The total number of signatures on the falsified pages exceeds two hundred, the minimum required to get on the ballot.

Kelliher, whom they trusted, asked them to. In her attempt to get her name on the ballot, Sister Kelliher paid no regard whatsoever to the integrity of her nomination. It seems that whenever she needed a "witness," she called on a friend to lie. Sister Kelliher's actions suggest that she did not care if her petitions bore phony signatures, as long as someone signed every page of her petition so she could file it with the Board of Elections. As William Viera, one of the people who swore falsely for her, said, "I guess she was just looking for anybody."

The Board of Elections was not the only entity duped by Sister Kelliher's fraudulent petition drive. To the contrary, community residents who agreed to collect signatures for Sister Kelliher were unpleasantly surprised when they discovered that their efforts to nominate Sister Kelliher ended up getting a different candidate on the ballot.

In September 1992, Kelliher's superiors agreed to let her serve the rest of her current term as a School Board member, but forbade her to run for reelection in 1993. In a letter to Sister Kelliher, the Superior General of the Franciscan Sisters of Atonement wrote, "you will not seek another term *under any circumstances*."[101] Although Sister Kelliher knew since September 1992 that she would not be permitted to run for reelection, she nevertheless embarked on a campaign to get her name on the ballot. Kelliher enlisted several supporters to circulate petitions without informing them that the Church had ordered her not to run.

In February, after learning that the Sister was defying its edict, the Order reiterated its position, reminding her orally and in writing that she was forbidden to run. Undeterred, Kelliher filed her petitions on February 16 anyway, only to turn around three days later and

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[101] Emphasis added.

announce that she was dropping out of the race.[102] Why would Sister Kelliher persist in an apparently futile exercise to get her name on the ballot? The answer became clear days later, when a "vacancy committee" selected Dolores Schaefer, a longtime political ally, to replace Kelliher on the ballot.[103]

The Election Law allows for a vacancy committee, chosen by the candidate, to select a substitute should the candidate drop out of the race after she files her petitions.[104] However, those who signed to nominate Sister Kelliher as a candidate for the Community School Board were never told that the Church had forbidden Kelliher to run, and that their signatures might be used to nominate another candidate. When the volunteers who worked to nominate Sister Kelliher by signing her petitions and collecting signatures for her discovered that the Order had forbidden her to run as early as September, many of them felt that they had been duped and betrayed. Marilyn Frank, who circulated Kelliher's petition, was one such disgruntled volunteer. "I'm really mad that I was put through this," Frank said. "If they had told me that Sister was told she could not run, [that] there's a problem, I would've said, 'Well, then, I'm not taking these petitions around.'"

Christine Bookin, another community member who collected signatures for Kelliher, also felt that she -- and the people from whom she collected signatures -- had been deceived.

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[102] Sister Kelliher claims that until February 19, she believed that she could still appeal to the Cardinal. However, no one at the Chancery gave the Sister any indication that the Order's decision might be overturned. In fact, Bishop Henry Mansell told investigators that when Sister Kelliher arrived at his office unannounced on February 19, he heard her appeal but told her that the Cardinal supported the Order's position.

[103] Dolores Schaefer's husband Robert Schoenbohm was one of the people who falsely signed as a subscribing witness on Sister Kelliher's petition. Ironically, Schoenbohm's false signature ended up validating signatures that counted toward the nomination of his wife.

[104] See Election Law, Section 6-148.

When Bookin found out that Sister Kelliher had not been totally honest with her from the outset, she was angry that the candidate allowed her volunteers to expend so much effort on her behalf without informing them that she had been forbidden to run. "I did not collect signatures for Dolores Schaefer," Bookin said that she told Kelliher. "I collected them for you."[105]

Breaking the Rules to Consolidate Power

In District 12, two candidates enacted a petition fraud scheme so that they could more easily use school employees to collect the requisite nominating signatures. Kenneth Drummond, a former Board member who continued to exert considerable influence over School Board 12 activities even after he was kicked off the Board in 1990, and Veronica James, an incumbent Board member, flouted the rules to exploit the people whom they could most easily manipulate: District 12 employees and community residents anxious for jobs.[106]

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[105] Sister Kelliher submitted to this office an unsolicited affidavit primarily focusing on her attempt to get permission to run for reelection. However, she declined our subsequent invitation to appear and answer specific questions under oath.

[106] Drummond and James were arrested on July 13, 1993 and charged with Offering a False Instrument for Filing in the First Degree and Misconduct Relating to Petitions. James, who was a sitting Board member when she committed the crimes, was also charged with requesting a subordinate to participate in a political campaign, a misdemeanor under the City Charter. They were each indicted for Offering a False Instrument for Filing and other related charges.

How it Worked: Using School Employees to Collect Signatures

Drummond needed people to complete the tedious task of canvassing the District 12 neighborhood to collect signatures for his nominating petition.[107] James Gelbman, an Assistant Principal in District 12, agreed to work for Drummond's campaign because Drummond promised him a promotion.[108] But Gelbman, who lives in Westchester County, was ineligible to sign as a subscribing witness. Drummond had Gelbman collect signatures anyway. He simply told Gelbman not to sign the bottom of the page, where the subscribing witness swears to having witnessed the signatures. After collecting signatures, Gelbman handed in his petition sheet at New Ventures Tax, Drummond's private business, where it was placed "in the bin" with other unwitnessed petition sheets.

Finding a "Witness"

Once he used school employees to collect signatures, Drummond needed someone to sign off as a subscribing witness. For this task, he turned to one of his part-time employees, Glinda Mickens. According to Mickens, she signed the petition sheets as a favor to her boss. She did not realize that she was falsely swearing that she had collected the signatures. Though she did not collect nor witness any signatures, she did sign fifteen pages as though

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[107] A person who collects signatures -- known as a "subscribing witness" -- must sign the bottom of the page to swear that he or she actually witnessed people signing the petition. Subscribing witnesses must live in the District and must be registered to vote.

[108] See *Power, Politics, and Patronage: Education in Community School District 12.*

she had. Capitalizing on his power, Drummond again made use of someone whose livelihood depends on him.[109]

When investigators told Mickens that she had been used in Drummond's fraudulent scheme, she agreed to seek an explanation from him.[110] "I just wanted you to sign off because, see, everybody does that," Drummond explained to Mickens in an attempt to justify his actions. "They just get people to sign off, OK, and you file them at the Board of Elections. If somebody wants to challenge you, that's not a crime or anything." Drummond did admit, however, that he knew that what he had asked Mickens to do was illicit. "You was supposed to carry [the petitions]," he told her.

Getting the Most from District 12 Employees

Drummond did not care whether his nominating signatures were valid, as long as he made it past the two-week period in which opponents can challenge individual signatures. Solely interested in getting the most signatures possible -- whether or not they were forgeries -- Drummond preyed on his workers' weak spots to get them to produce signatures in large quantities. To Gelbman, an aspiring principal, Drummond promised a promotion; to Robert "Ricky" White, a young Board of Education kitchen employee, and his friend Kendrick Alston, Drummond offered cash. Drummond well knew that the method he used to get signatures opened the door for fraud. But he also knew that the likelihood of getting caught was slim. In fact, by his own admission, he suspected that White and Alston forged

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[109] Mickens said that Drummond alluded to the fact that once he was elected to the School Board, he would help her get a job in District 12.

[110] Thereafter, Mickens approached Drummond, wearing a recording device.

signatures. "Maybe they got their two girlfriends and the four of them sat down there, you know, and was writing, and, if they'd a taken my butt to court and saw a whole pattern of that shit they'd throw your ass out," Drummond told a fellow candidate. Drummond elaborated on the suspected scheme, and described how White and Alston might have "collected" so many nominating signatures:

> What they might have done was take, taking the um, printouts that I gave 'em and just went to the house, you know, and just signed up, 'cause some of them sheets did look too clean to be true. I mean, that's a perfect looking, I mean every handwrite, every signature was just fine, you know, no grease stains, no drop of water, nothing boy, I mean, you know how people write over when they make a little mistake or something....[111]

Though in some cases Drummond may have "looked the other way" when he suspected that his campaigners forged signatures, when it suited him he also directly asked White to commit fraud. Drummond and James used Ricky White and his mother, a school aide in IS 200, to sign as witnesses to signatures they did not collect. Drummond summoned Ricky White to his office, where White signed as the subscribing witness on a stack of petition pages. He did not know who collected the signatures on the pages he signed, but he did confirm that he definitely did not collect the signatures on at least some of those pages. Similarly, White's mother, Rosa Mae White, carried several petition sheets for Veronica James, but at James' request she signed as the subscribing witness on 28 pages. Like Mickens, she did not read the area that explained that she was swearing to the contents of the page -- nor did James explain that to her. In fact, James herself falsely signed as a

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[111] By "printout," Drummond refers to the lists of registered voters he gave to White and Alston so they would know from whom to get signatures.

subscribing witness on at least five of her petition pages, and each of those pages contains at least one forged nominating signature.

Not an Isolated Incident

The fraud we uncovered in Districts 1 and 12 was not limited to Kelliher, Drummond, and James. Other District 12 candidates and candidates in at least one other district enacted similar schemes that went undetected by the Board of Elections.

District 12 candidate Lydia Velez explained how she, too, disregarded the rules so that she could use a school employee to carry petitions. A reluctant District 12 employee collected signatures for Velez, but the employee was too "scared" to sign off as a witness. If he worked for Velez's campaign and then she lost the election, his job stability would be at the mercy of her political opponents.[112] So Velez sent the employee out to collect the signatures, and she herself signed as the subscribing witness.

District 10

A similar false witness scheme was discovered by chance in District 10. During the petition challenge period, District 10 candidate Herbert Suss was reviewing the petition filed by his opponent Marvin Kamiel. Suss noticed that Kamiel's brother Howard had signed a page which Harriet Kamiel, the candidate's wife, had signed as the subscribing witness. Suss thought this was odd because, he explained, "Howard does not get along with Harriet and he would never sign a petition she carried."

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[112] In fact, early this fall, the new Community School Board 12 issued a directive that no employees are to be hired without their approval. Thus, Velez's campaign workers may well have had reason to fear retribution.

When questioned by our office, Howard Kamiel readily admitted his dislike for his brother's wife and agreed that he would not have signed any petition she presented. However, he did recall signing a petition on behalf of Marvin. Howard remembered that he signed the petition in front of a bartender named Ed Brennan at a VFW Hall in Van Cortlandt Village. Like Kenneth Drummond and Lydia Velez in District 12 and Sister Kelliher in District 1, Kamiel easily got someone -- his wife, a teacher in District 10 -- to falsely swear to having witnessed the signatures that someone else actually witnessed.

Other Forms of Petition Fraud

Candidates in various districts brazenly violated other petition regulations as well. However, there was no mechanism to apprehend those who violated the rules or even to discourage potential cheaters. In District 12, Drummond directed the people who gathered signatures for him to leave blank the area on the petition designated for the candidate's name. That way, whoever needed the signatures -- be it Drummond, James, or another candidate on their slate -- could write in his or her name and insert the page of ten signatures into that petition. Accordingly, people who signed the petitions thinking they were nominating Kenneth Drummond may well have been used to nominate a different candidate entirely.

Many signature collectors also left the date blank so that later, they could "backdate" the petitions. If a voter signs more than one petition, only the first signature is considered valid. Thus, candidate Lydia Velez explained, candidates or their supporters often backdate petitions so that they can be sure that even a signature obtained on the second day of

petitioning is not preempted by an earlier signature on someone else's nominating petition. "Everybody already knows if you go even the day before [the filing deadline] you just alter the date to the 5th or 6th [of January]," she explained. "Everybody tries to beat each other with the date." More than a half dozen individuals from various parts of the city confirmed that campaign workers routinely fill in the dates of the signatures just prior to filing petitions with the Board of Elections. Candidates might also postdate a page to enable an individual to become a registered voter "before" he or she signed the petition, Velez explained.

In District 10, candidate Marvin Kamiel's campaign took the backdating scheme to an extreme. And as in District 12, school employees were used as agents to carry out the illicit activity. The principal of IS 118, Gerald Friedlander, asked Milt Silverstein, a retired teacher who now works as a mentor in that school, to collect nominating signatures for Kamiel. According to Silverstein, Kamiel's wife Harriet, a teacher at IS 206, brought him petitions on Sunday, January 3. Silverstein began collecting nominating signatures the next day, and he continued to do so throughout the first week in January. What Silverstein did not know was that the petitions should not have been available until January 5, and no signatures could validly be obtained before then.

Herbert Suss learned that his opponent was circulating petitions early, and he immediately notified the Board of Elections. Once the Board of Elections put on record that signatures had been collected early, the Kamiel campaign did not submit any signatures collected by Silverstein. One can only speculate about what use Kamiel would have made of the signatures collected before the official date had Suss not complained publicly.

How Kamiel's campaign team got the petitions early still remains a mystery. Milt Silverstein could say only that Harriet Kamiel gave him the petitions on January 3. Marvin Kamiel admitted that his wife got the petitions from the Bronx Board of Elections, but denied any knowledge as to when she obtained them. Bronx Board of Elections clerks Sandra Parness and Kay Amer denied releasing any petitions prior to the authorized date.

In any case, at first blush it would appear that it would do a candidate little good to obtain petitions early. Any signature that is dated before the formal start of the petition period would be considered invalid by the Board of Elections, so the forms should be of no use until the proper period begins. However, if, as Velez explained, dates are filled in later and their accuracy is rarely checked by officials, the fact that signatures were collected early could easily go undetected.

In many instances, campaign workers who circulated petitions and signed as witnesses freely admitted to investigators that they filled in dates that bore little or no relation to when the individuals actually signed the petitions. None of these individuals were exposed nor their petitions invalidated by the Board of Elections. Thus, as a practical matter, obtaining blank petitions ahead of the competition gave Kamiel a window of opportunity. His canvassers, with access to petitions prior to January 5, could gain a significant advantage by collecting signatures early, and then merely filling in "January 5" as the date of collection.

The mindset of those who abuse this system was captured by Drummond when he flippantly expressed the common belief that even if a petition is riddled with fraud, as long as it is not discovered during the two-week challenge period, the candidate is home free. "If I sat down in my living room and wrote up 500 signatures myself and nobody ever raised the issue by a certain date, they could never bring that back up," he said.

RESIDENCY

One of the most basic requirements for candidacy, that the office-seeker live in the district he or she seeks to represent,[113] was all too often ignored or circumvented in this year's election. We found that people who have minimal, if any, ties to the local school district create sham addresses, claim to live with friends or relatives, or otherwise misrepresent their true homes in order to get elected to the local school boards. As a result, those who were meant to serve on the school boards -- genuinely concerned parents and community members -- are denied that opportunity. Several candidates used these schemes to get elected this May.

Riverdale or the South Bronx?

In 1990, Kenneth Drummond was removed from Community School Board 12 because he did not live in District 12, which encompasses the Morrisania and Tremont sections of the South Bronx. After Drummond was elected to Community School Board 12 in 1989, Board of Education investigators[114] proved that Drummond actually lived in the Bronx neighborhood of Riverdale. Though Drummond never moved, he made a few cosmetic changes and ran for the school board again, winning a seat in the 1993 election.

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[113] See Education Law Section 2590-c(4).

[114] The investigation into Drummond's residency was conducted by the Board of Education's Inspector General, before the creation of this independent office, The Special Commissioner of Investigation for the New York City School District.

Why would someone who lives in a comfortable, middle class community -- whose daughter attends school there -- want to serve on the school board in an entirely different neighborhood? Drummond's record makes it perfectly clear that it was not the three R's, but the three P's -- power, politics, and patronage -- that motivated him to run for a seat on the school board. Even after he was removed in 1990, Drummond remained an active participant in the affairs of Community School Board 12.

During the summer of 1991, Drummond orchestrated a deal with Board members and the District superintendent to give principalships and assistant principalships to candidates who had worked on his political campaigns. To get one of his preferred candidates a principalship, Drummond subverted the official principal selection process by arranging meetings at his office to sway the parents who would be reviewing resumes.[115] Drummond, by his own admission, instructed the parents as to which candidates they should recommend as their top choices.[116] In November of the same year, Drummond held a fundraiser for his re-election bid for the community school board. He used school employees to work for his campaign and to perform personal favors for him by leading them to believe that the more they contributed to his campaign, the better their chances of getting a promotion.[117]

Again this year, school employees and community members anxious for school district jobs busily worked on Drummond's school board campaign, giving him a solid

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[115] The principal selection process is supposed to be kept entirely confidential. Each parent who serves on the resume screening committee signs a confidentiality agreement to keep the process from being tainted by outside political interests.

[116] *Power, Politics, and Patronage: Education in Community School District 12*, The Special Commissioner of Investigation for the New York City School District, April, 1993, p. 41.

[117] For a complete narrative of how Drummond masterminded the November 1991 fundraiser, see p. 93 of the April report.

chance of winning the election. But one annoying detail remained. Drummond still did not live in District 12. A few simple precautions took care of that. Drummond transferred the lease for his Riverdale apartment to his wife's name. He started to receive mail at his District 12 address. Just to be sure, Drummond installed a telephone in the apartment he rents at 810 Ritter Place, a building within the District 12 boundaries. "You know, I put a phone in around the corner," he told Board member Ed Cain in March, in a secretly recorded conversation. "I don't even know what the damn phone number is, but I had to put this phone in just in case somebody wants to challenge me later...." Apparently Drummond saw no need to move to the South Bronx to run for the local school board, as long as he could fool investigators. "I've had this phone here for about a month, maybe it's two months, six weeks at least, a good six weeks, and I don't even know the number, Eddie," Drummond confided in Cain. "Yeah, the number's only written in one place and that's on the phone bill that [my wife] pays and she's not even sure where the phone bill is, so I can call out, but nobody can call me."

When he was arrested in July for petition fraud, Drummond further revealed that he set up this dummy telephone to fool investigators. When the arresting investigator asked Drummond his address, he responded, "810 Ritter Place." But when asked his telephone number, Drummond responded, "I don't remember." His Riverdale telephone number, however, Drummond recalled without hesitation. Judging from the evidence, it would be safe to conclude that to reach Drummond at home, one should call him at his Riverdale address.

Benjamin Ramos: Commuter School Board Member

Adjacent to District 12, Community School District 9 has a similar constituency to that of its Bronx neighbor. The majority of District 9 residents live below the poverty line, making the local school district a prime target for political hacks eager to enhance their power. These self-interested board members turn the community school district, with its relatively large budget for entry-level jobs, into a patronage mill for friends and political cronies. When such individuals control the community school board, budget and personnel decisions are not based on educational concerns. Instead, board members concern themselves with distributing jobs and promotions to build a political base and to consolidate their power.

Like Kenneth Drummond, Benjamin Ramos saw the tempting opportunity offered by a South Bronx community school board. Substantial evidence indicates that Ramos, who won a seat on Community School Board 9 in the 1993 election, lives in South Plainfield, New Jersey. For the purpose of running for School Board 9, Ramos claimed to live in apartment 5D at 1307 Edward L. Grant Highway, which is within the confines of District 9. However, when the Board of Elections sought to contact Ramos, their correspondence was returned with the postmark "Attempted -- [addressee] not known." The Board of Elections did not pursue the matter further, but our investigation revealed that Benjamin Ramos does not even live in New York State, let alone in District 9.

To begin with, at ROLM Inc., where Ramos worked from July 1984 until March 1993, Ramos himself listed his address as 220 Geary Drive, South Plainfield, New Jersey. His wife, who is a teacher in District 9, also filled out school records listing that address as

her home. On the first day of school this year, after her husband was elected to School Board 9, she submitted a change of address card and provided a new address: 1307 Edward L. Grant Highway, Bronx, New York. However, she still wrote on her son's "Emergency Home Contact Card" that her husband could be reached at the New Jersey address.

Still other official records indicate that Ramos calls New Jersey home. He had a New Jersey driver's license until it expired in 1991, and his wife currently holds a New Jersey license. On both documents, the Ramos' list 220 Geary Drive, South Plainfield, New Jersey as their residence. If that wasn't enough, Ms. Ramos registered a car to that address, and family medical records indicate that Ramos lives with his wife and son in South Plainfield.

Upon discovering this evidence, our investigators conducted surveillance on Ramos. On two separate mornings, he and his wife left the house in South Plainfield, and his wife drove him to the train station where he caught a train to his new job in Newark. On the second day, Ramos, apparently alerted to the operation, approached our investigators and asked, "Why were you parked outside of my *summer home* this morning?" Clearly, Ramos referred to the South Plainfield house as his summer residence for the benefit of our investigators.

Indeed, Board of Elections officials were not the only ones who could not reach Ramos in the Bronx. Letters sent to Benjamin Ramos at 1307 Edward L. Grant Highway in the Bronx are returned to the sender, for the United States Postal Service has no record of a Ramos family at that Bronx address, and the mailman who delivers to that address knows of no one accepting mail on Ramos' behalf. Even the building's landlord has never heard of a Benjamin Ramos. And two of Ramos' "neighbors" -- the man living right next door in

apartment 5E and the woman who lives in apartment 5B -- told an investigator that apartment 5D is occupied by an elderly couple. Both said that they know all of their hallmates at least by sight. But when shown a photograph of Ramos, they each said definitively that they had never seen this man before. After Ramos alerted the couple who has lived in 5D for over twenty years to our investigation, they reluctantly told investigators that their daughter, who is Ramos' wife, and her son live there with them. They did not mention Benjamin Ramos.[118]

That a resident of New Jersey won a seat on Community School Board 9 makes a mockery of the ideals behind decentralization. Through residency fraud, outsiders like Ramos and Drummond snatch control of New York City's local school boards from the hands of concerned community members.

Other Candidates

The phenomenon of outsiders running for seats on New York City's community school boards is not limited to the notoriously corrupt Districts 9 and 12. In District 8, Sandra Love claimed a Bronx address on documents she filed with the Board of Elections to support her successful candidacy. Only after the election did investigators learn that she lives in Westchester. When Love's son appeared as a witness in a 1987 murder trial, he testified under oath that he lives with his mother at a Mount Vernon address. Yet, the voters in the Bronx district she sought to represent had no way of knowing this when they cast their votes.

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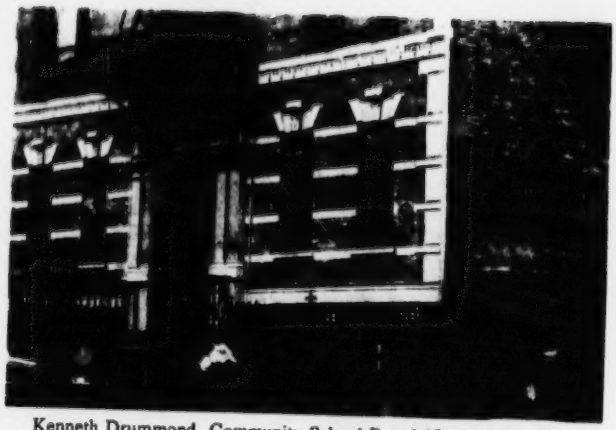
[118] Ramos' claim that he lives in apartment 5D is even more unlikely when one considers that the apartment has one bedroom. Why would Ramos squeeze four adults and one child into a one bedroom apartment when he owns a sprawling house in New Jersey?

In the face of the allegations regarding her fraudulent residence, Sandra Love declined the seat to which she was elected. In still another instance, George Palermo, a School Board 9 member who was running for reelection, claimed that he lived in an apartment his parents had really moved out of months before he filed his nominating petition. However, after a local news station exposed him, Palermo was not reelected. Because candidates can so easily commit residency fraud, the local community school boards are vulnerable to manipulation by members who have minimal, if any, ties to the schoolchildren, parents, and community members of the district.

1307 Edward L. Grant Highway in the Bronx, where Benjamin Ramos, Community School Board 9 member, claims to live.

Ramos getting into his car in front of his home at 220 Geary Drive in South Plainfield, New Jersey.



Kenneth Drummond, Community School Board 12 member, claims to live in this building at 810 Ritter Place in the South Bronx.

Drummond's primary residence: a luxury apartment house in Riverdale.

BEST COPY AVAILABLE

CAMPAIGN ADVERTISING

An endorsement from a reputable source can make all the difference to a candidate who hopes to be successful in an election. But what is a candidate to do when endorsements are not forthcoming? In Community School District 27 in Queens, supporters of one candidate decided to create their own.

"President Emeritus"

The weekend before the Community School Board Election, candidate Geraldine Chapey was the lucky recipient of endorsements by the Gateway Republican Club and the Parents Association of Rockaway Beach Junior High School 180, or so it seemed. Flyers printed on what appeared to be the organizations' official letterhead urged voters to "make your vote count by writing #1 for Geraldine D. Chapey."[119] This campaign literature was mailed en masse and was signed "William Sampol, President, Emeritus."[120]

The leaflets were a total fraud. In fact, both groups had explicitly decided not to endorse specific candidates for the school board.[121] Furthermore, not only is William Sampol

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[119] The literature suggested that the voter choose Shalom Becker #2, Kevin L. Pruitt #3, and Richard J. Altabe #4.

[120] Another piece of literature was sent out the same weekend on the letterhead of the Conservative Party of Queens. Although unsigned, it is similar in content to the signed endorsements.

[121] Both Thomas A. Carney, President of the Gateway Republican Club and Liz Sulik, Co-president of the JHS 180 Parent Association, verified that Sampol was not the "President, Emeritus" of their respective organizations. In addition, each provided this office with meeting minutes reflecting the positions of their organizations with respect to the school board elections.

not the "President Emeritus" of either organization, there is no such position for either group.[122] Understandably, these organizations were outraged by Sampol's brazen actions.

History Repeats Itself

William Sampol's execution of an outright fraud on the voters of District 27 is more than reminiscent of the corrupt practices that plagued the district in the past. It was part of an effort to return to power those turned out of office by scandal in 1989. In that year, the Joint Commission On Integrity In the Public Schools, commonly known as the "Gill Commission," heard testimony from Superintendent Coleman Genn about widespread illicit dealmaking.[123] In particular, Genn described how board member James (Jimmy) Sullivan pressured him to give William Sampol a job as the Administrative Assistant in charge of a "satellite" district office in the Rockaways, a plum position, yet one that Sampol was wholly unqualified to fill.[124] Genn, who was by then cooperating with the Commission, did not succumb to Sullivan's influence and Sampol did not get the promised slot. However, Sullivan did succeed in placing Eugene Pasternak, Geraldine Chapey's son-in-law, on the Board to fill a vacancy.

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[122] Sampol was a member of the Gateway Republicans, but he held no office; he was once an officer of the Parent's Association, but he was no longer a member.

[123] Coleman Genn, the Superintendent of District 27, cooperated with the Gill Commission and recorded conversations with various school board members including James Sullivan. The James Sullivan associated with District 27 has no connection with the James Sullivan discussed in connection with Community School District 10.

[124] Genn testified that Sampol agreed to fabricate his resume so that he would appear qualified for the position at the nonexistent satellite office.

Following the Gill Commission report, Chancellor Fernandez ousted the entire District 27 Board, including Sullivan and Pasternak. Moreover, Sullivan was convicted of mail fraud and coercion in connection with his activities as a Board member. However, in this, the first election since the 1989 ouster, both Sullivan and Sampol reappeared as prominent supporters of Geraldine Chapey. Among other activities, they both distributed campaign material on her behalf.

This investigation has not established that Chapey knew that Sampol planned to defraud voters with phony literature. However, she did not disavow his association with, nor his efforts on behalf of, her campaign. In the meantime, Sampol resorted to any means necessary to rebuild the power base that the Sullivan forces lost in the wake of the Gill Commission investigation. The phony flyers he distributed under the letterhead of the Gateway Republicans and other groups warned that "the Fernandez Gang" -- referring to the trustees who replaced the prior Board -- "MUST NOT BE ELECTED." With the help of such bogus endorsements, Geraldine Chapey was elected to Community School Board 27.

FINANCIAL DISCLOSURE

For a variety of reasons, we have seen candidates, their supporters, and even the officials who run the Community School Board Election violate the rules. The financial disclosure requirement is another regulation that is all too often misunderstood or even outright ignored.

The requirement that candidates state who contributed money to their campaigns, how much each contributor gave, and how the candidates spent that money was intended to give voters access to important information that may help them decide for whom they want to vote. Moreover, requiring candidates and political committees to disclose who contributed to their campaigns provides a window into the political pressure suffered by educators, making it harder for school board candidates to demand -- explicitly or implicitly -- that their employees support them financially.

But in practice, the financial disclosure rules -- much like the rules governing the petition process or the ballot count -- are rendered virtually useless. To begin with, the Board of Elections does not enforce the elaborate regulations. Candidates and political committees who raise money to support candidates are required to file three separate disclosure forms on three distinct dates. But candidates who did not file their statements or who filed them late were not penalized.[125] This year, only 185 of the 543 candidates filed all

[125] All figures regarding the filing of financial disclosure statements are based on documents provided by the Board of Elections. Penalties, though minor, are available but are never enforced. In fact, of the 288 winners, forty six did not file any financial disclosure forms. We examined the forms due on April 2 and April 23 that were filed by May 12. The post-election forms, which were due on May 31, we examined if filed by July 28.

three required statements.[126] More than 25 percent of the candidates ignored the financial disclosure requirements altogether.

Even political committees were able to raise substantial funds without documenting how much money they made or how they spent it. In April, the "Comite Pro Representacion Hispana," a committee supporting a group of candidates in District 9, held a fundraiser attended by more than 250 people.[127] The tickets cost $25 each. Yet, as of November 1993, the committee did not file any of the required financial disclosure statements, and the money is totally unaccounted for.

The CSA Pic 10, another political action committee that supported fourteen District 10 candidates, including Ed McCarthy, had not filed any of the required documents even a month after Election Day. When they learned that we were looking into their finances, the committee hastily filed one of the required disclosure statements.[128] The committee's treasurer stated on the form that the committee raised $10,040, and that it divided the money equally among the fourteen candidates it supported, giving seven hundred dollars to each candidate. But two of those candidates stated that they received only palm cards worth much less than seven hundred dollars from the CSA Pic 10. On the other hand,

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[126] The names of 543 candidates appeared on the ballot, but even more were required to file financial disclosure statements.

[127] Several witnesses testified that people came and went throughout the party, and that from 200 to 250 people were present at any given time.

[128] We subpoenaed the committee's treasurer, Milton Fein. The subpoena required that he supply the CSA Pic 10's financial records to this office by June 14, 1993. Mr. Fein did not comply with the subpoena. On June 23, the CSA Pic 10 filed the disclosure statement that was due on May 31.

one candidate disclosed that the committee donated over two thousand dollars worth of supplies to her campaign.[129]

Another problem with the financial disclosure regulations is that they are not specifically designed for the Community School Board Election. Thus, even when followed correctly, the rules do not necessarily serve their intended purpose. For example, because the rules are designed for a more costly general election, candidates only have to itemize specific contributions and expenditures if the total amount exceeds $1,000. For this year's Community School Board Election, though, almost one half of the candidates who filed at least one statement waged their campaigns without going over the $1,000 mark, or so they claimed. All those candidates had to do was sign a statement certifying that they did not raise or spend more than $1,000. Thus, voters know virtually nothing about the finances of even those candidates who do file the required statements.

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[129] The CSA Pic 10 claimed that it received $750 from the CSA. They did not specify who donated the remaining $9,290. They simply indicated that 100 individuals each contributed $99. The CSA Pic 10 deliberately solicited contributions of no more than $99, apparently believing that if a contribution does not exceed $100, they do not have to specify where they got it. But section 2590-c(6)(b) of the Education Law, read in conjunction with the Election Law, states that any candidate or committee who raises or spends more than $1,000 for a Community School Board campaign must itemize each and every contribution.

RECOMMENDATIONS FOR SYSTEMIC CHANGE

The events we have chronicled in this report make clear that the present system of electing representatives to local community school boards must be changed dramatically. As it stands now, the system is too often an impediment to true community representation and participation in the educational process. The format itself is inherently confusing and thus inaccessible to all but the most sophisticated politicians. Enforcement of the rules is so lax or unevenly applied as to be an invitation to commit fraud. At the same time, politics too often invades the classroom and dictates educational decisions.

Decentralization was designed to attract and empower concerned members of a community -- parents and others -- in the education of the community's children. Its creators did not intend to establish patronage mills where, every three years, teachers and administrators are forced to become foot soldiers in their bosses' campaigns and educational priorities take a backseat to political imperatives. Unfortunately, in the current atmosphere, this is all too often the case. An arcane and inaccessible system prevents full community representation and allows a district to be held captive by self-interested politicians. Those same politicians, with their power consolidated, can exert enormous pressure on the teachers they oversee and unduly politicize the school environment. As a result, the community does not receive decentralization's intended benefit -- an effective voice in the educational process. Rather, it is saddled with an unwanted side effect: the politicizing of the schools.

On the eve of the twenty fifth year of the decentralization of New York City's school system, the time has come to revitalize community control by reforming its bedrock, the

electoral system. In making our recommendations, we are cognizant that this report comes at the close of a year in which there has been extraordinary and intense debate over school reform in the City of New York. Thoughtful proposals have been circulated from several quarters, and most have included reforms of the electoral process. Our recommendations should and could be implemented regardless of which bureaucratic structure emerges from the current debate. They are intended to simplify the system, clarify the rules, provide uniform and enhanced enforcement, and discourage fraud.

* **RECOMMENDATION:** Proportional voting should be eliminated.

The current system of proportional voting is cumbersome, error-prone and confusing to the general public. It requires the use of paper ballots and entails a lengthy and complicated counting procedure in which ballots are transferred from pile to pile. As a result, the process by which the winners are determined takes several days, if not weeks, while police manpower and resources are drained. The process itself often gives the appearance of impropriety.

* **RECOMMENDATION:** Votes should be cast on the voting machines used in the general elections.

First and foremost, using voting machines would provide voters with a level of privacy they have a right to expect but do not currently receive. In addition, public concern about the proper handling of individual paper ballots would be alleviated. Returns and

definitive results would be available almost instantaneously. And finally, Board of Elections inspectors could operate systems they are most familiar with and the need to subcontract the count procedure would be eliminated.

*** RECOMMENDATION:** The election should be moved to coincide with the general election in November, provided that upon adequate review, it is determined that this move would not further politicize or otherwise disrupt the system.

Though this year's election saw an increase in voter turnout, less than fifteen percent of those eligible actually cast ballots. If the school board election coincided with the vote on other initiatives or races for elective office, turnout could be expected to increase. However, prior to making such a move a determination must be made that sharing the ballot with other political races will not further politicize the school system. In addition, the question of whether electing a board in September or November, while school is in session, would cause undue disruption, must also be considered.

*** RECOMMENDATION:** The Board of Education should immediately begin planning a complete overhaul of the parent voter registration process. The current contradictory mandates of the Education and Election Laws with respect to parent voter certification should be reconciled.

As this report makes clear, the certification process has broken down repeatedly, simultaneously disenfranchising some while enfranchising others not eligible. This year, the effort began too late, moved too slowly, and suffered from a lack of communication. The

Board of Education and Board of Elections cannot wait until four months before the registration deadline to begin thinking about a workable plan. Nor can they hide behind the conflict in state law which on the one hand allows voters to register up to twenty five days before an election but requires parent voters to be certified at least thirty days prior to the election. While that law made it impossible to timely certify any registrants who registered less than thirty days before the election, it did not account for the errors that allowed multiple voting, the lack of compliance by principals that led to the disenfranchising of parents at 190 schools, or the failures in the distribution of the forms themselves. The Board of Education must begin immediately to reach out to parents and other concerned parties to develop a workable solution.

* **RECOMMENDATION:** All decisions made by the Board of Elections regarding candidates for Community School Board must be made in public and on the record.

As we documented in this report, the decisions of the Board of Elections Commissioners were often made behind closed doors and delivered without explanation. Making matters worse, such secretive decision making often appeared to contradict preliminary determinations made by the Commissioner's own clerks. Such processes corrode public confidence in the system. To rectify this, all Board of Elections hearings should be recorded either stenographically or on audiotape. A record of the actual vote must be kept; not merely an indication that a candidate is "in" or "out." And finally, when the Commissioners reach a result that differs from that of their clerks, an explanation should be provided and recorded.

*** RECOMMENDATION:** The financial disclosure requirements for Community School Board candidates should be tightened, clarified, and enforced. Candidates who fail to comply should not be sworn in as board members.

Financial disclosure is valuable because it affords the public an opportunity to see who is providing support to individual candidates and which candidates may be exerting pressure on school employees to participate in the political process. This year however, compliance with regulations was nothing short of abysmal. More than 25 percent of all candidates ignored the requirements entirely. Only 185 out of 543 candidates filed all the required documents. At least forty six elected board members had not filed all the required documents by the time they were seated in July. The causes are two-fold: the candidates' inability to understand the rules and their lack of incentive to follow them.

The regulations for school board candidates must be simplified and clarified so that candidates understand their obligations. It is not enough for the Board of Elections to merely adapt forms used in the general election, where different rules apply, for use by school board candidates. It must create forms that clearly explain that if candidates raise over $1000, they must itemize all receipts. If they raise less, they must understand their obligation to file an affidavit to that effect. Then, once the rules are clear, candidates must be convinced that their filings will be investigated and transgressions punished. At a minimum, those who fail to file all the required documentation should not be seated on any community school board.

*** RECOMMENDATION:** The Board of Education should require more detailed disclosure of residency status from Community School Board candidates.

As we have repeated in several contexts in this report, decentralization was meant to give a voice in the educational process to parents and others in their local communities. Thus, it is axiomatic that only local residents should be permitted to serve on community school boards. However, at present, too many candidates attempt to run in districts where they have minimal, if any, ties. When they are elected, they do not have the same stake in the success of the district's educational mission and historically have been tempted to pursue personal agendas. To guard against such abuse, the Board of Education should require candidates for the Community School Board to disclose the nature of their ties to the address they are claiming as their residence. This could properly include a sworn statement disclosing the length of time lived at the claimed address, the amount of time currently spent at that home, and the existence of any alternative residences.

* **RECOMMENDATION:** The Board of Education should extend "whistleblower" protection to the students of the New York City Public Schools and their parents.

Currently, all employees of the school system are protected from retaliation for their reporting of misconduct or wrongdoing by other employees of the system. However, parents and children in the school receive no such protection. While parents and students are often in the best position to detect and report wrongdoing, the students at least, are the most vulnerable. In fact, during the course of this investigation, certain parents expressed fears that their children would be retaliated against if they, the parents, cooperated with our inquiry. To alleviate those fears and to encourage all members of the school community to report corrupt or criminal activity, conflicts of interest, unethical conduct, or other

wrongdoing in the electoral process or otherwise throughout the school system, the Board of Education's resolution of July 7, 1992 must be amended to expand protection to students and their parents.

This report clearly demonstrates that the negative impact of politics on education is not limited to any one district. Therefore, we repeat the following recommendations made in our April report on corruption in District 12:

- The Education Law should specifically state that the intentional interference in the hiring process by a board member beyond the statutorily-defined role, is misconduct that can lead to suspension or removal from office.

- The hiring power of Community School Boards should be limited to the hiring of the superintendent.

- The Chancellor should have the authority to reject, upon a written statement of reasons, candidates for superintendent submitted by the Community School Boards.

- Community School Board members should receive mandatory training in their rights and responsibilities.

DISCIPLINARY RECOMMENDATIONS

In addition to systemic changes, we recommend that the Chancellor take appropriate disciplinary action against the following individuals who violated rules and regulations, if not the law. Some are not previously named in this report.

Kenneth Drummond, Community School Board 12 member who has been indicted for submitting fraudulent nominating petitions in support of his 1993 candidacy, should be removed from his position.

Benjamin Ramos, Community School Board 9 member whose primary residence is neither in New York State nor in District 9, should be removed from his position.

Stuart Possner, principal at PS 100 in District 21, who pressured teachers and staff to participate in the 1993 Community School Board Election and otherwise acted inappropriately, should be immediately removed from his position and his employment should be terminated. It is clear from our investigation that Possner enlisted members of his staff to assist him in pressuring teachers. Those individuals may be the subject of future recommendations for disciplinary action.

James Sullivan, the director of Pupil Personnel in District 10, who orchestrated the fraudulent absentee ballot scheme, should be terminated from employment with the Board of Education.

Frank Rodriguez, assistant director of Bi-lingual Programs in District 9, participated in the fundraiser described in the Undue Political Influence section, including the sale of tickets to subordinates. **Gerald Friedlander**, principal of IS 118, requested subordinates to participate in political campaigns in District 10. His conduct is described in the Petition Fraud section of this report. They should be reminded of the conflict of interest provision in the City Charter.

Hilda Gutierrez, principal in District 9, participated in the fundraiser described in the Undue Political Influence section, but denied her involvement in testimony before this office. She should be reminded of her duty to cooperate with this office.

The following individuals should be disciplined appropriately:

Milton Fein, principal of PS 7 in District 10, who as treasurer of the political action committee CSA Pic 10 described in the Financial Disclosure section of this report, inaccurately and falsely reported the expenditures to individual candidates.

Julia Pappas, Community School Board member in District 30, sent invitations to her fundraiser to every principal in the District, in violation of the Chancellor's Special Election Circular.

Laura Liff, School Safety Officer in District 21, circulated a nominating petition for Marc Liff, her son, who was a candidate in the Community School Board Election, inside PS 100 during school hours, in violation of the Chancellor's Special Election Circular.

Pearl Ginsberg, Community School Board member in District 11, circulated her nominating petition at the district office in violation of the Chancellor's Special Election Circular.

Rosemarie Pilkington, teacher in District 31, placed campaign literature in faculty and staff school mailboxes in violation of the Chancellor's Special Election Circular.

Angelo Sanchez, principal, **Miguelina Morales**, paraprofessional, and **Mrs. Fuentes**, a teacher in District 9, violated the Chancellor's Special Election Circular by campaigning in the schools, as is described in the Undue Political Influence section of this report.

Harriet Kamiel, teacher in District 10, who in addition to the evidence reported in the Petition Fraud section, violated the Chancellor's Special Election Circular by using a "personal day" on Election Day, May 4, 1993, to campaign for her husband Marvin Kamiel.

Carmen Jiminez, Harriet Kamiel's principal at IS 206, allowed her to take time off on Election Day in violation of the Chancellor's Special Election Circular.

REFERRALS

In addition to the systemic changes and disciplinary actions w· are recommending, we have referred several instances of fraud, corruption and conflicts of interest to the appropriate law enforcement agencies. To date, two individuals have been indicted and several others are under investigation.

Kenneth Drummond and **Veronica James**, who were both candidates for the school board in District 12, have been indicted by a New York County Grand Jury in connection with their filing of fraudulent nominating petitions. The prosecution is being handled by the Frauds Bureau of the New York County District Attorney's Office.

Evidence relating to the casting of fraudulent absentee ballots in District 10 has been referred to the United States Attorney's Office for the Southern District of New York. The prosecution is being handled by the Public Corruption Unit of that office.

Evidence of **Stuart Possner's** improper coercion of teachers at PS 100 in District 21 has been referred to the Kings County District Attorney's Office. The investigation is being conducted by the Corruption Investigation Divi ion Unit of that Office.

Evidence of impropriety and conflicts of interest in the Board of Elections review of the nominating petitions of Ciro Guerra, Steven Eskow, Randy Glenn, and Edward Cain, including the improper interference with the process by Fred Brown, has been referred to the New York County District Attorney's Office, where a parallel investigation is already underway, and to the Bronx County District Attorney.

Evidence that **Sister Elizabeth Kelliher** filed a fraudulent nominating petition and swore falsely on individual pages of that petition in support of her candidacy, has been referred to the Frauds Bureau of the New York County District Attorney's Office.

Evidence relating to **Carmelo Saez's** handling of funds raised in connection with the 1993 Community School Board Campaign has been referred to the Bronx County District Attorney's Office.

Evidence that **Harriet Kamiel** fraudulently signed as a subscribing witness on a petition filed in support of her husband Marvin's candidacy has been referred to the Bronx County District Attorney's Office.

The complaint we received and substantiated regarding **William Sampol's** distribution of fraudulent campaign material was also registered with the United States Attorney's office for the Eastern District of New York and with the Queens County District Attorney's office.